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17
18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 FOR THE COUNTY OF ORANGE

20
21 MEGAN ARRINGTON, as an individual
and on behalf of all others similarly situated,

22 Plaintiff,

23 v.

24 AUTOMATIC DATA PROCESS
INSURANCE AGENCY, INC., a
25 Massachusetts corporation, and DOES 1
through 50, inclusive,

26 Defendants.
27
28

CASE NO.: 30-2019-01099994-CU-OE-CXC

*Assigned for all purposes to the Honorable Peter J.
Wilson, Dept. CX-102*

CLASS ACTION

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT**

Complaint Filed: 09/24/2019
First Amended Compl. Filed: 11/01/2019
Second Amended Compl. Filed: 09/30/2020
Trial Date: None Set

1 **JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

2 Subject to final approval by the Court, this Joint Stipulation of Class Action and PAGA
3 Settlement (“Settlement Agreement,” “Settlement,” or “Agreement”) is between MEGAN
4 ARRINGTON (“Named Plaintiff”) on her own behalf and on behalf of all members of the
5 Settlement Class, as defined below, on the one hand, and defendant AUTOMATIC DATA
6 PROCESSING INSURANCE AGENCY, INC. (“Defendant”), on the other hand (collectively
7 the “Parties”), in the lawsuit entitled *Megan Arrington v. Automatic Data Processing Insurance*
8 *Agency, Inc.*, Orange County Superior Court, Case No. 30-2019-01099994-CU-OE-CXC (“the
9 Litigation”). This Settlement Agreement resolves all claims that were asserted or could have been
10 asserted against Defendant pertaining to the individual, putative class, and representative claims
11 set forth by Named Plaintiff in the Litigation.

12 **I. DEFINITIONS**

13 **A. Administrative Costs.** All administrative costs of settlement, including cost of
14 notice to the Settlement Class, claims administration, and any fees and costs incurred or charged
15 by the Settlement Administrator in connection with the execution of its duties under this
16 Stipulation of Settlement.

17 **B. Agreement.** The terms “Agreement” or “Settlement Agreement” are used
18 synonymously herein to mean this Stipulation of Settlement for purposes of Settlement.

19 **C. Class Counsel.** The term “Class Counsel” as used herein means Larry W. Lee,
20 Esq. and Mai Tulyathan, Esq. of Diversity Law Group, P.C., and Jonathan M. Lebe, Esq. of Lebe
21 Law P.C., and all of the lawyers of those firms. The term “Class Counsel” shall be used
22 synonymously with the term “Plaintiff’s Counsel.”

23 **D. Class Period.** The term “Class Period” as used herein means the period from
24 September 24, 2015 through December 1, 2020.

25 **F. Court.** The term “Court” as used herein means the Superior Court of the State of
26 California for the County of Orange.

1 **G. Counsel for Defendant.** The term “Counsel for Defendant” as used herein means
2 David B. Monks, Esq. and Sean T. Kingston, Esq. of Fisher & Phillips LLP, and all of the lawyers
3 of that firm.

4 **H. Final.** The term “Final” means: (1) the date of final affirmation of the Final
5 Approval from any appeal, the expiration of the time for, or the denial of, a petition to review the
6 Final Approval, or if review is granted, the date of final affirmation of the Final Approval
7 following review pursuant to that grant; or (2) the date of final dismissal of any appeal from the
8 Final Approval or the final dismissal of any proceeding to review the Final Approval, provided
9 that the Final Approval is affirmed and/or not reversed in any part; or (3) if no putative class
10 members intervene but objections are filed, the expiration date of the time for the filing or noticing
11 of any appeal from the Court’s Final Approval of the Settlement, as determined under Rule
12 8.104(a)(3) of the California Rules of Court or (4) if no putative class members intervene and
13 there are no objections, the date the Court enters the Final Approval Order and Final Judgment.

14 **I. Final Approval Order.** The term “Final Approval Order” means the Final
15 Approval Order entered by the Court following the Final Fairness and Approval Hearing.

16 **J. Final Judgment.** The term “Final Judgment” means the Final Judgment entered
17 by the Court following the Final Fairness and Approval Hearing.

18 **K. Date of Final Approval.** The terms “Date of Final Approval” or “Final
19 Approval” as used herein mean the final formal judgment entered by the Court at the Final
20 Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement.

21 **L. Defendant.** The term “Defendant” as used herein means the named defendant in
22 the Litigation, defendant Automatic Data Processing Insurance Agency, Inc.

23 **M. Employer Taxes.** The term “Employer Taxes” as used herein means the
24 employer-funded share of taxes and contributions imposed on the wage portions of the Settlement
25 Amount under the Federal Insurance Contributions Act, the Federal Unemployment Tax Act,
26 and/or any similar state taxes and contributions required of employers, such as for unemployment
27 insurance. The Employer Taxes will be paid separately by Defendant in addition to and at the
28 same time as the Settlement Amount.

1 **N. Litigation.** The term “Litigation” as used herein means the operative civil
2 complaint that was filed in California state court and any amendments thereto, which is currently
3 captioned *Megan Arrington v. Automatic Data Processing Insurance Agency, Inc.*, Orange
4 County Superior Court, Case No. 30-2019-01099994-CU-OE-CXC.

5 **O. Named Plaintiff.** The term “Named Plaintiff” as used herein means the named
6 plaintiff in the Litigation, Megan Arrington.

7 **P. Net Settlement Amount.** The term “Net Settlement Amount” as used herein
8 means the Settlement Amount minus any award of attorneys’ fees and Litigation costs,
9 Administrative Costs to the Settlement Administrator, enhancement to the Named Plaintiff, and
10 the State of California’s portion of the penalties allocated pursuant to California’s Private
11 Attorney General Act (“PAGA”) (“PAGA Settlement”), as provided in Sections XIV, VIII, XV,
12 XVI, and XVII respectively.

13 **Q. Net Settlement Payments.** The term “Net Settlement Payment(s)” shall mean
14 payments made to the Settlement Class as part of the Settlement, including wages, penalties and
15 interest. The Class Members’ share of taxes for the wage portions of the Settlement Payment
16 shall be withheld from each Net Settlement Payment.

17 **R. Notice of Proposed Class Action Settlement.** “Notice of Proposed Class Action
18 Settlement” or “Notice” shall mean the notice to be provided to all Settlement Class Members
19 regarding the terms of this Settlement, substantially in the form attached hereto as **Exhibit A**.
20 The Notice shall constitute class notice pursuant to California Rule of Court 3.769(f) and, once
21 approved by the Court, shall be deemed compliant with California Rule of Court 3.766.

22 **S. Preliminary Approval Order.** The term “Preliminary Approval Order” shall
23 mean the order entered by the Court following the Preliminary Approval Hearing.

24 **T. Settlement.** The term “Settlement” as used herein means this Agreement to
25 resolve the Litigation.

26 **U. Settlement Administrator.** The term “Settlement Administrator” as used herein
27 means Phoenix Settlement Administrators which will be responsible for the administration of the
28 Settlement Payment, as defined below, and all related matters.

1 **V. Settlement Agreement.** The terms “Settlement Agreement” or “Agreement” are
2 used synonymously herein to mean this Stipulation of Settlement.

3 **W. Settlement Amount.** The terms “Settlement Amount” as used herein means the
4 amount of eight hundred thirty-two thousand three hundred fifty-two dollars and ten cents
5 (\$832,352.10), which shall be paid by Defendant under this Settlement Agreement. The Net
6 Settlement Payments, Court approved attorneys’ fees and Litigation costs, Administrative Costs
7 to the Settlement Administrator, enhancement to Named Plaintiff, and State of California’s
8 portion of the PAGA Settlement shall be paid from the Settlement Amount, except as provided
9 herein. Defendant will be separately responsible for any Employer Taxes as required by law,
10 including FICA and FUTA, which shall not be paid from the Settlement Amount. The Settlement
11 Amount shall be non-reversionary. The number of Settlement Class Members does not exceed
12 123. The number of Eligible Workweeks does not exceed 14,662.

13 **X. Settlement Class.** For settlement purposes only, the Parties agree to the
14 certification of a class pursuant to California Code of Civil Procedure § 382, defined as: All
15 current and former non-exempt inside sales individuals employed by Defendant within the State
16 of California at any time during the Class Period.

17 **II. BACKGROUND**

18 **A.** In the Litigation, the Named Plaintiff alleges, *inter alia*, on behalf of herself and
19 all others similarly situated, that Defendant violated California state wage and hour laws and the
20 California Business and Professions Code Section 17200 *et seq.*, and PAGA, as a result of
21 Defendant’s California wage and hour policies and practices.

22 **B.** On September 5, 2019, Named Plaintiff sent her written notice to the LWDA
23 under the PAGA, California Labor Code § 2698, *et seq.* Named Plaintiff subsequently filed her
24 class and representative PAGA action complaint in Court on September 24, 2019. The operative
25 Second Amended Complaint asserts claims for violations of California Labor Code §§ 201-203,
26 226(a), 510, 558, 1194, and 2802, California Business & Professions Code § 17200, *et seq.*, and
27 the PAGA, California Labor Code § 2698, *et seq.* Specifically, Named Plaintiff contends, by
28 way of the Litigation, that Defendant failed to properly and timely pay overtime wages, failed to

1 pay overtime at the correct regular rate of pay, failed to provide accurate itemized wage
2 statements, failed to reimburse business expenses, and engaged in unfair and unlawful business
3 practices. Named Plaintiff further alleges that Defendant's failure to properly pay overtime
4 wages resulted in the underpayment of wages to employees upon termination and/or resignation.
5 Finally, as part of the Litigation, Named Plaintiff also alleges that Defendant's aforementioned
6 wage and hour practices establish liability for penalties recoverable pursuant to the PAGA.

7 **B.** Class Counsel conducted informal discovery and investigation that yielded
8 information and documentation concerning the claims set forth in the Litigation. As part of
9 informal discovery, Defendant's counsel provided Class Counsel with Defendant's policies and
10 procedures regarding the payment of overtime wages, the payment of commissions, and
11 reimbursement of business expenses, a sampling of time and payroll records of putative class
12 members, as well as data regarding the number of putative class members and aggrieved
13 employees, the number of Eligible Workweeks, and the wage rates in effect during the Class
14 Period.

15 **C.** Named Plaintiff and Class Counsel have engaged in good faith, arms-length
16 negotiations with Defendant concerning possible settlement of the claims asserted in the
17 Litigation. On September 1, 2020, the Parties participated in a full-day mediation before mediator
18 Steven Serratore, Esq., a distinguished labor and employment mediator. After lengthy
19 negotiations, the Parties ultimately reached an agreement to settle and resolve the Litigation on
20 the terms and conditions stated in this Settlement Agreement, subject to the approval of the Court.

21 **D.** Class Counsel has conducted an investigation of the law and facts relating to the
22 claims asserted in the Litigation and has concluded, taking into account the sharply contested
23 issues involved, the expense and time necessary to pursue the Litigation through trial and any
24 appeals, the risks and costs of further prosecution of the Litigation, the risk of an adverse outcome,
25 the uncertainties of complex litigation, and the substantial benefits to be received by the Named
26 Plaintiff and the members of the Settlement Class pursuant to this Stipulation for Settlement, that
27 a settlement with Defendant on the terms and conditions set forth herein is fair, reasonable,
28

1 adequate, and in the best interests of the Settlement Class. Named Plaintiff, on behalf of herself
2 and of the Settlement Class, has agreed to settle the Litigation on the terms set forth herein.

3 **E.** Defendant has concluded that, because of the substantial expense of defending
4 against the Litigation, the length of time necessary to resolve the issues presented herein, the
5 inconvenience involved, and the concomitant disruption to its business operations, it is in its best
6 interests to accept the terms of this Agreement. Defendant denies each of the allegations and
7 claims asserted against it in the Litigation. Defendant nevertheless desires to settle the Litigation
8 for the purpose of avoiding the burden, expense and uncertainty of continuing litigation and for
9 the purpose of putting to rest the controversies engendered by the Litigation.

10 **F.** This Agreement is intended to and does effectuate the full, final and complete
11 resolution of all allegations and claims that were asserted, or could have been asserted, in the
12 Litigation by Named Plaintiff and members of the Settlement Class as set forth in Section II.A.

13 **III. JURISDICTION**

14 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
15 Litigation includes claims that, while Defendant denies them in their entirety, would, if proven,
16 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
17 Final Approval of the Settlement, pursuant to Code of Civil Procedure Section 664.6, the Court
18 shall retain jurisdiction of this action solely for the purposes of interpreting, implementing, and
19 enforcing this Settlement consistent with the terms set forth herein.

20 **IV. STIPULATION OF CLASS CERTIFICATION**

21 The Parties stipulate to the certification of the Settlement Class for purposes of Settlement
22 only. This Stipulation is contingent upon the Preliminary and Final approval and certification of
23 the Settlement Class only for purposes of settlement. Should the Settlement not become final,
24 for whatever reason, the fact that the Parties were willing to stipulate provisionally to class
25 certification as part of the Settlement shall have no bearing on, and shall not be admissible in
26 connection with, the issue of whether a class should be certified in a non-settlement context in
27 the Litigation. Defendant expressly reserves the right to oppose class certification and / or to
28

1 proactively move to deny class certification should this Settlement be modified or reversed on
2 appeal or otherwise not become final.

3 **V. MOTION FOR PRELIMINARY APPROVAL**

4 Named Plaintiff will bring a motion before the Court for an order preliminarily approving
5 the Settlement including the Notice of Proposed Class Action Settlement, which is attached as
6 **Exhibit A**, and including conditional certification of the Settlement Class for settlement purposes
7 only and will request that the Court enter the Preliminary Approval Order. The date that the
8 Court grants Preliminary Approval of this Agreement will be the “Preliminary Approval Date.”
9 Class Counsel will prepare the Motion for Preliminary Approval.

10 **VI. STATEMENT OF NO ADMISSION**

11 **A.** Defendant expressly denies liability to Named Plaintiff and to the Settlement Class
12 upon any claim or cause of action. This Agreement does not constitute, and is not intended to
13 constitute, an admission by Defendant as to the merits, validity, or accuracy of any of the
14 allegations or claims made against them in the Litigation.

15 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor
16 any statements, discussions or communications, nor any materials prepared, exchanged, issued
17 or used during the course of the negotiations leading to this Agreement or the Settlement, is
18 intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be
19 used or be admissible in any way in this case or any other judicial, arbitral, administrative,
20 investigative or other forum or proceeding as evidence of any violation of any federal, state, or
21 local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law
22 or in equity. The Parties themselves agree not to introduce, use, or admit this Agreement, directly
23 or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other
24 forum or proceeding, as purported evidence of any violation of any federal, state, or local law,
25 statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity,
26 or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in support
27 of the Parties’ request for preliminary approval and for final approval of the Settlement, and in
28 any proceeding before the Court that has as its purpose the interpretation, implementation, or

1 enforcement of this Agreement or any orders or judgments of the Court entered in connection
2 with the Settlement.

3 **C.** None of the documents produced or created by Named Plaintiff or the Settlement
4 Class in connection with the claims procedures or claims resolution procedures constitute, and
5 they are not intended to constitute, an admission by Defendant of any violation of any federal,
6 state, or local law, statute, ordinance, regulation, rule or executive order, any California Wage
7 Order, or any obligation or duty at law or in equity.

8 **D.** The Parties agree that class certification pursuant to California Code of Civil
9 Procedure Section 382 under the terms of this Agreement is for settlement purposes only.
10 Nothing in this Agreement will be construed as an admission or acknowledgement of any kind
11 that any class should be certified or given collective treatment in the Litigation or in any other
12 action or proceeding. Further, neither this Agreement nor the Court's actions with regard to this
13 Agreement will be admissible in any court or other tribunal regarding the propriety of class
14 certification or collective treatment. In the event that this Agreement is not approved by the Court
15 or any appellate court, is terminated, or otherwise fails to be enforceable, Named Plaintiff will
16 not be deemed to have waived, limited or affected in any way any claims, rights or remedies in
17 the Litigation, and Defendant will not be deemed to have waived, limited, or affected in any way
18 any of its objections or defenses in the Litigation.

19 **VII. WAIVER, RELEASE, DISMISSAL, AND CONFIDENTIALITY**

20 **A. Release as to All Settlement Class Members.**

21 Upon the Final Approval Order and Final Judgment becoming Final, Named Plaintiff and
22 all members of the Settlement Class, except those that make a valid and timely request to be
23 excluded from the Settlement Class and Settlement, waive, release, discharge, and promise never
24 to assert in any forum the following claims against Defendant, its past and present officers,
25 directors, shareholders, unit holders, managers, employees, agents, principals, heirs,
26 representatives, accountants, auditors, consultants, and its respective successors and predecessors
27 in interest, subsidiaries, affiliates, related entities, parents, agents, assigns, insurers, re-insurers,
28 and attorneys of any of them from all claims, demands, rights, liabilities and causes of action that

1 were pled or which could have been pled in the Complaint, First Amended Complaint, Second
2 Amended Complaint, and/or Plaintiff's notice submitted to the LWDA in the Litigation, based
3 on the factual allegations therein, that arose during the Class Period with respect to the following
4 claims: (a) failure to properly and timely pay overtime wages and sick leave wages; (b) failure to
5 provide accurate, itemized wage statements under Labor Code §§ 226 and 226.3; (c) violation of
6 Labor Code §§ 201-204; (d) failure to reimburse all reasonable and necessary business expenses
7 under Labor Code § 2802; and (e) all damages, penalties, interest and other amounts recoverable
8 under said causes of action under California and federal law, to the extent permissible, including
9 but not limited to the California Labor Code, the applicable Wage Orders, Business & Professions
10 Code §§ 17200, *et seq.*, and the Private Attorneys General Act of 2004, Labor Code §§ 2698, *et*
11 *seq.*, based on the facts and causes of action as alleged in the Complaint, First Amended
12 Complaint, Second Amended Complaint, and/or Plaintiff's notice submitted to the LWDA.

13 **B. General Release by Named Plaintiff Only.**

14 In addition to the release made in Section VII.A., upon the date the settlement becomes
15 Final, Named Plaintiff individually makes the additional following general release of all claims,
16 known or unknown.

17 Named Plaintiff individually releases Defendant, its past and present officers, directors,
18 shareholders, unit holders, managers, employees, agents, principals, heirs, representatives,
19 accountants, auditors, consultants, and its respective successors and predecessors in interest,
20 subsidiaries, affiliates, related entities, parents, agents, assigns, insurers, re-insurers, and
21 attorneys of any of them, from all claims, demands, rights, liabilities and causes of action of every
22 nature and description whatsoever, known or unknown, asserted or that might have been asserted,
23 whether in tort, contract, or for violation of any state or federal statute, rule or regulation arising
24 out of, relating to, or in connection with any act or omission by or on the part of any Defendant.
25 (The release set forth in this Paragraph B shall be referred to hereinafter as the "General
26 Release.")

27 With respect to the General Release, Named Plaintiff stipulates and agrees that, upon the
28 Date of Final Approval, Named Plaintiff shall be deemed to have, expressly waived and

1 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section
2 1542 of the California Civil Code, or any other similar provision under federal or state law, which
3 provides:

4 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
5 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
6 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
7 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
8 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**
9 **DEBTOR OR RELEASED PARTY.**

10 Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other
11 than or different from the facts now believed to be true, the release of claims contained herein
12 shall be effective as to all unknown claims.

13 **C. Publicity.**

14 Named Plaintiff, Class Counsel, and Counsel for Defendant agree that they have not and
15 will not discuss, disclose, or communicate the Litigation, other than pursuant to the terms of
16 Section VII.C., below, of this Agreement. Named Plaintiff, Class Counsel, and Counsel for
17 Defendant also agree that they have not and will not publish the Litigation. Named Plaintiff, in
18 response to inquiries, will state that that “the Litigation was resolved.” Class Counsel shall not
19 report the Litigation in any medium or in any publication (with the exception of the dissemination
20 of the Notice of Proposed Class Action Settlement to Settlement Class Members), shall not post
21 or report anything regarding the Litigation on their websites, and shall not contact the press,
22 reporters or general media regarding the Litigation. As used herein, “press, reporters, or general
23 media” shall refer to and include newspapers, periodicals, magazines, online publications, social
24 media platforms, and television and radio stations and programs, and any representative of the
25 foregoing. Upon receipt of an inquiry from the press, reporters, or general media, Class Counsel
26 and Counsel for Defendant shall respond “we have no comment.” However, Named Plaintiff’s
27 attorneys are authorized to disclose the Litigation, Settlement, and the terms of this Agreement
28 to the Court and the California Labor Workforce Development Agency (“LWDA”) to the extent
necessary to obtain the approval of the Settlement and/or to enforce the Settlement Agreement.
Nothing herein shall prevent Class Counsel or the Settlement Administrator from communicating

1 with Named Plaintiff and members of the Settlement Class and the LWDA regarding the terms
2 of this Stipulation and/or the Settlement. However, for the limited purpose of allowing Class
3 Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the
4 name of the Parties in this action, the venue/case number of this action, and the fact this action
5 settled on a class-wide basis (but not any other settlement details) for such purposes.

6 **VIII. SETTLEMENT ADMINISTRATOR**

7 Named Plaintiff and Defendant, through their respective counsel, have selected Phoenix
8 Settlement Administrators as the Settlement Administrator to administer the Settlement, which
9 includes but is not limited to establishing and maintaining a Qualified Settlement Fund account;
10 printing, mailing, distributing the Notice of Proposed Class Action Settlement (including
11 obtaining updated class member addresses, performing a National Change of Address search,
12 and/or skip-tracing, and performing any necessary re-printing and re-mailing of returned
13 Notices); establishing a toll-free number to respond to inquiries regarding the Settlement;
14 determining the validity of the opt-outs; keeping track of opt-outs and objections; calculating all
15 amounts to be paid from the Settlement, including the amount of the Settlement each Settlement
16 Class Member is eligible to receive, the amount of all payroll tax deductions to be withheld or
17 backup withholdings, deducting appropriate tax withholdings and paying them to the appropriate
18 government entity; issuing and mailing checks for individual settlement payments for attorneys'
19 fees and litigation costs, enhancements to the Named Plaintiff, and penalties to the LWDA under
20 PAGA; providing Class Counsel and Counsel for Defendant with weekly updates on the status
21 of Settlement administration (including numbers and percentages of mailed Notices, returned
22 Notices, re-mailed Notices, undeliverable Notices, opt-outs, and objections); providing
23 declarations and/or reports as required by the Court; and for any other tasks that the Parties may
24 mutually agree or the Court orders the Settlement Administrator to perform. Charges and
25 expenses of the Settlement Administrator are estimated not to exceed \$6,750.00 and will be paid
26 from the Settlement Amount. Any charges and expenses of the Settlement Administrator greater
27 than the estimated \$6,750.00 will be paid from the Settlement Amount. If the actual Settlement
28 Administrator fees are less than the Parties' estimation, the remainder of the estimated Settlement

1 Administrator fees will be part of the Net Settlement Amount to be distributed to Settlement Class
2 Members.

3 **IX. NOTICE, OBJECTIONS, AND EXCLUSION RIGHTS**

4 **A. Class Notice.**

5 Named Plaintiff and Defendant, through their respective attorneys, have jointly prepared
6 a Notice of Class Action and Proposed Settlement (the “Notice”) that will be provided to the
7 members of the Settlement Class through the following procedure:

8 As soon as practicable following Preliminary Approval of the Settlement, but no later than
9 fourteen (14) days after the Court’s Preliminary Approval order, Defendant will provide to the
10 Settlement Administrator, confidentially, the following information about each Settlement Class
11 member: (1) full name; (2) last known mailing address and telephone number; (3) number of
12 workweeks each Settlement Class Member worked during the Class Period based on dates of
13 employment; and (4) Social Security number (collectively the “Class List”). The Class List shall
14 be formatted in Microsoft Office Excel or equivalent format.

15 The Settlement Administrator shall run all the addresses provided through the United
16 States Postal Service National Change of Address database (which provides updated addresses
17 for any individual who has moved in the previous four years who has notified the U.S. Postal
18 Service of a forwarding address) to obtain current address information. The Settlement
19 Administrator shall mail the Notice to the members of the Settlement Class via first-class regular
20 U.S. Mail using the most current mailing address information available within ten (10) calendar
21 days after the receipt of the Class List from Defendant.

22 The Notice will include information regarding the nature of the Litigation; a summary of
23 the principal terms of the Settlement; the definition of the Settlement Class member and the dates
24 of the Class Period; a statement that the Court has preliminarily approved the Settlement; the
25 procedure, time period, and deadline for objecting to the Settlement; the date and location of the
26 Final Approval hearing; information regarding the opt-out procedure, instructions, and the
27 deadline to do so; the claims to be released; Defendant’s calculation of the number of workweeks
28 during the Class Period; and the estimated individual settlement payment the Settlement Class

1 member will receive if they do not validly opt-out of the Settlement. The deadline for Settlement
2 Class Members to postmark their opt-out request or to object to the Settlement will be sixty (60)
3 calendar days from the initial mailing of the Notice by the Settlement Administrator, unless the
4 60th day falls on a Sunday or State holiday, in which case the deadline will be extended to the
5 next day on which the U.S. Postal Service is open. The Notice will inform Settlement Class
6 members that in order to receive their individual settlement payment, they do not need to do
7 anything except keep the Settlement Administrator apprised of their current mailing addresses.

8 If a Notice is returned from the initial notice mailing, the Settlement Administrator will
9 attempt to determine the correct address using address skip tracing, or another search method, in
10 an attempt to locate a more current address for re-mailing. If the Settlement Administrator is
11 successful in locating a new address, it will promptly re-mail the Notice to the Settlement Class
12 member via regular First-Class U.S. Mail. Further, any Notices returned with a forwarding
13 address to the Settlement Administrator, as non-deliverable before the deadline date, shall be sent
14 to the forwarding address affixed thereto. If the Settlement Administrator is unsuccessful in
15 locating a new address, it will re-mail the Notice to the original address it had for the Settlement
16 Class member. Settlement Class Members who receive a re-mailed Notice shall have their
17 deadlines to opt-out or object to the Settlement extended fifteen (15) days from the original
18 deadlines.

19 No later than twenty-five (25) days prior to the Final Approval Hearing, the Settlement
20 Administrator shall provide Counsel for Defendant and Class Counsel with a declaration attesting
21 to the completion of the Notice process, including the number of attempts to obtain valid mailing
22 addresses for and re-sending of any returned Notices, as well as the number of valid opt-outs and
23 deficiencies which the Settlement Administrator received.

24 **B. Objections.**

25 In order for any Settlement Class member to object to this Settlement, or any term of it,
26 the person making the objection must not submit a request for exclusion (i.e., must not opt out)
27 and should, by no later than sixty (60) days after the Notice of Proposed Class Action Settlement
28 was initially mailed to the Settlement Class members, mail to the Settlement Administrator a

1 written statement of the grounds of objection. The written objection must include: (i) the
2 objector's full name, signature, address, and telephone number, (ii) a written statement of all
3 grounds for the objection accompanied by any legal support for such objection; and (iii) copies
4 of any papers, briefs, or other documents upon which the objection is based. The objection
5 should clearly explain why the Settlement Class member objects to the Settlement and state
6 whether the Settlement Class member (or someone on his or her behalf) intends to appear at the
7 Final Approval Hearing. The Settlement Administrator shall immediately upon receipt transmit
8 to the Parties' counsel copies of all objections and supporting papers. The Parties then shall file
9 the objections and all supporting papers with the Court as soon as practicable but not more than
10 three (3) business days after receipt. Alternatively, even if a Settlement Class member does not
11 submit a written objection, a Settlement Class member may also appear personally or through an
12 attorney, at his or her own expense, at the Final Approval hearing to present his or her objection
13 directly to the Court. Class Counsel will not represent any Class Members with respect to any
14 such objection(s) to the Settlement. Any attorney who will represent an individual objecting to
15 this Settlement must file a notice of appearance with the Court and serve Class Counsel and
16 Defense Counsel. If a Settlement Class member objects to this Settlement, the Settlement Class
17 member will remain a member of the Settlement Class and if the Court approves this Agreement,
18 the Settlement Class member will be bound by the terms of the Settlement and Final Approval in
19 the same way and to the same extent as a settlement class member who does not object. The date
20 of mailing of the Notice of Proposed Class Action Settlement to the objecting Settlement Class
21 member shall be conclusively determined according to the records of the Settlement
22 Administrator. The Court retains final authority with respect to the consideration and
23 admissibility of any Settlement Class member objections. At no time will any of the Parties or
24 their counsel seek to solicit or otherwise encourage Class Members to submit written objections
25 to the Settlement or appeal from the Order and Judgment.

26 **C. Opportunity to be Excluded.**

27 In order for any Settlement Class member to validly exclude himself or herself from the
28 Settlement (i.e., to validly opt out), the Settlement Class member can submit a written request for

1 exclusion (“Request to be Excluded”). For a Request to be Excluded to be valid, it must contain:
2 (i) the name, address, telephone number; (ii) be signed by the Settlement Class member; (iii)
3 clearly state that the Class Member does not wish to be included in the Settlement (i.e. “I hereby
4 request to be excluded from the Class Action Settlement in *Arrington v. Automatic Data*
5 *Processing Insurance Agency, Inc.*,” or words to the similar effect); and (v) be faxed or
6 postmarked to the Settlement Administrator. by no later than sixty (60) calendar days after the
7 date the Settlement Administrator initially mails the Notice of Proposed Class Action Settlement
8 to the Settlement Class members. The Notice of Proposed Class Action Settlement shall contain
9 instructions on how to opt out.

10 The date of the initial mailing of the Notice, and the date the Request to be Excluded was
11 postmarked, shall be conclusively determined according to the records of the Settlement
12 Administrator. The postmark date of the Request to be Excluded shall be the exclusive means to
13 determine whether said Request to be Excluded is timely submitted. Any Settlement Class
14 member who timely and validly submits a request to be excluded from the Settlement Class and
15 this Settlement will not be entitled to any individual settlement payment, will not be bound by
16 the terms and conditions of this Settlement, and will not have any right to object, appeal, or
17 comment thereon. Any member of the Settlement Class who does not timely file and mail a
18 Request to be Excluded from the Settlement Class will be deemed included in the Settlement
19 Class in accordance with this Settlement. Named Plaintiff waives any right to be excluded from
20 the Settlement Class.

21 **D. Non-Cooperation.**

22 The Parties and their counsel agree not to encourage members of the Settlement Class to
23 opt out of this settlement, or to object to the Settlement, directly or indirectly, through any means.
24 If a Settlement Class member contacts Class Counsel, Class Counsel may objectively discuss the
25 terms of the Settlement and the Settlement Class member’s options.
26
27
28

1 **X. CLAIMS PROCEDURE**

2 Settlement Class members shall **not** be required to submit a claim form to participate in
3 the Settlement. Named Plaintiff and Defendant have agreed upon the following procedure to
4 resolve all claims during the Class Period.

5 In the Notice of Proposed Class Action Settlement, each member of the Settlement Class
6 will receive a calculation of the total number of workweeks the Settlement Class member worked
7 as a non-exempt inside salesperson in California during the Class Period (hereinafter “Eligible
8 Workweeks”), as well as the Settlement Class Member’s estimated Net Settlement Payment.
9 Periods of non-membership in the Class (i.e., in an exempt position or outside California or
10 outside the Class Period) are excluded from the Eligible Workweeks calculation.

11 If the member of the Settlement Class disputes the number of Eligible Workweeks set
12 forth in the Notice, such person must follow the directions in the Notice, including preparing a
13 statement setting forth the number of Eligible Workweeks that such person believes in good faith
14 is correct and stating that the member of the Settlement Class authorizes the Settlement
15 Administrator to review the Settlement Class member’s personnel file to determine such
16 information and attaching any relevant documentation in support thereof. The member of the
17 Settlement Class must mail the signed and completed statement no later than sixty (60) days after
18 the date of the mailing of the Notice, or the number of Eligible Workweeks set forth in the Notice
19 will govern the Net Settlement Payments to the members of the Settlement Class.

20 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation
21 with Class Counsel and Counsel for Defendant, will review the pertinent payroll records showing
22 the dates the Settlement Class member was employed and the pertinent leave(s) taken, which
23 records Defendant agrees to make available to the Settlement Administrator.

24 After consulting with Class Counsel and Counsel for Defendant, the Settlement
25 Administrator shall compute the number of Eligible Workweeks to be used in computing the
26 Settlement Class member’s pro rata share of the Net Settlement Amount. In the event there is a
27 disparity between the dates a Settlement Class member claims he or she worked during the Class
28 Period and the dates indicated by Defendant’s records, Defendant’s records will control unless

1 inconsistent with paycheck stub(s) (or bona fide copies thereof) provided by the Settlement Class
2 member, in which case the paycheck stub(s) will control. The Settlement Administrator's
3 decision as to the total number of Eligible Workweeks shall be final and binding and non-
4 appealable. The Settlement Administrator shall send written notice of the decision on any such
5 claim to the Settlement Class member, to Class Counsel, and Counsel for Defendant within ten
6 (10) calendar days of receipt of the dispute.

7 **XI. FINAL APPROVAL HEARING AND ENTRY OF FINAL APPROVAL ORDER**
8 **AND FINAL JUDGMENT**

9 Upon expiration of the Objection/Exclusion Deadlines, on the date set forth in the
10 Preliminary Approval Order, a Final Approval Hearing shall be conducted in order to: (1) review
11 this Settlement and determine whether the Court should give it final approval; (2) consider any
12 objections submitted by Settlement Class members; and (3) consider Class Counsel's request for
13 attorney's fees and costs, the Named Plaintiff's Enhancement Award, and the requested
14 Administrative Costs.

15 At the Final Approval Hearing, Named Plaintiff, through Class Counsel, shall ask the
16 Court to grant final approval to this Settlement and shall submit a Final Approval Order and a
17 Final Judgment, to the Court for its approval. The Parties shall take all reasonable efforts to
18 secure entry of the Final Approval Order and Final Judgment.

19 **XII. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

20 **A. Distribution Formula.**

21 Members of the Settlement Class who do not opt out will receive their individual
22 settlement payment as good and valuable consideration for the waiver and release of claims set
23 forth in Section VII.A., above, in an amount determined by the Settlement Administrator in
24 accordance with the provisions of this Agreement. The individual settlement payment to each
25 member of the Settlement Class not excluding him/herself will be determined by dividing the Net
26 Settlement Amount by the total number of Eligible Workweeks calculated for all members of the
27 Settlement Class during the Class Period (the "Workweek Amount") and then multiplying the
28 Workweek Amount by the number of Eligible Workweeks worked by the individual Settlement

1 Class Member during the Class Period as determined by the Settlement Administrator in
2 accordance with Section X, above, less any applicable withholding taxes based on the Parties
3 stipulated allocation of the Net Settlement Amount as provided for in Section XVI, below.

4 **B. Funding of Settlement.**

5 Within thirty (30) calendar days after the agreement becomes Final, Defendant will
6 deposit into a Qualified Settlement Fund the total Settlement Amount of eight hundred thirty-two
7 thousand three hundred fifty-two dollars and ten cents (\$832,352.10). The Net Settlement
8 Payments, Court approved enhancement to Named Plaintiff, Court approved attorney's fees and
9 Litigation costs, Claims Administration Costs and the PAGA payment to the LWDA will be paid
10 from the Settlement Amount. At no time prior to the date on which the Settlement becomes
11 Final shall Defendant be required to escrow any portion of the Settlement Amount.

12 **C. Time for Distribution.**

13 Within fifteen (15) calendar days following receipt of the Settlement funds from
14 Defendant, the Settlement Administrator shall mail the Net Settlement Payments to Settlement
15 Class members, State of California portion of the PAGA Settlement, Class Counsel's attorneys'
16 fees and costs, and Court approved enhancement to Named Plaintiff. Also, within the same 15-
17 day period, the Settlement Administrator shall deduct its Administrative Costs from the
18 Settlement Amount. If a settlement check mailed to any Settlement Class member is returned as
19 undeliverable, the Settlement Administrator will conduct address skip tracing to locate a more
20 current address for re-mailing. The Settlement Administrator will then promptly re-mail the
21 settlement check to the Settlement Class member.

22 Settlement checks shall remain negotiable for one hundred and eighty (180) days from
23 the date of mailing. If settlement check remains uncashed after one 180 days from issuance, the
24 Settlement Administrator shall transfer the value of the uncashed checks, plus any interest that
25 has accrued thereon, to Legal Aid at Work in the name of the Settlement Class member. The
26 Settlement Administrator shall void any tax documents issued to Settlement Class members who
27 did not cash their checks within 180 days of issuance. In such event, such Settlement Class
28 member shall nevertheless remain bound by the Settlement. Prior to the Final Approval hearing,

1 the Parties shall provide the Court the total amount that will be payable to the Settlement Class
2 member. The Parties also shall request that the Court set a date for the Parties to report to the
3 Court the total amount that was actually paid to Settlement Class members.

4 **XIII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

5 The amounts paid under this Agreement do not represent a modification of any previously
6 credited hours of service under any employee benefit plan, policy or bonus program sponsored
7 by Defendant. Such amounts will not form the basis for additional contributions to, benefits
8 under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by
9 Defendant's, policies or bonus programs. Any payments made under the terms of this Settlement
10 shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages,
11 or any other form of compensation for the purposes of Defendant's benefit plan, policy or bonus
12 program. Defendant retains the right to modify the language of their benefit plans, policies and
13 bonus programs to effect this intent and to make clear that any amounts paid pursuant to this
14 Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring
15 term as defined by applicable plans, policies and bonus programs for purpose of eligibility,
16 vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not
17 required by this Settlement.

18 **XIV. ATTORNEYS' FEES AND LITIGATION COSTS**

19 **A. Class Counsel Attorneys' Fees and Litigation Costs.**

20 Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall
21 not seek or receive an amount in excess of, 33¹/₃% of the Settlement Amount, or \$277,450.70,
22 for all past and future attorneys' fees necessary to prosecute, settle and administer the Litigation
23 and this Settlement. Additionally, Defendant shall not oppose an application by Class Counsel
24 for, and Class Counsel shall not seek or receive an amount in excess of thirty thousand dollars
25 (\$30,000.00), which represents all past and future Litigation costs and expenses necessary to
26 prosecute, settle and administer the Litigation and this Settlement. Any attorneys' fees or
27 Litigation costs awarded to Class Counsel by the Court shall be deducted from the Settlement
28 Amount for the purpose of determining the Net Settlement Amount. The "future" aspect of these

1 amounts include, without limitation, all time and expenses expended by Class Counsel in
2 defending the Settlement and securing Final Approval (including any appeals therein).

3 There will be no additional charge of any kind to either the members of the Settlement
4 Class or request for additional consideration from Defendant for such work. This amount shall
5 include all attorneys' fees, Litigation costs and expenses for which Named Plaintiff and Class
6 Counsel could claim under any legal theory whatsoever. Within fifteen (15) calendar days
7 following receipt of the Settlement funds from Defendant, the Settlement Administrator shall
8 disburse payment from the Settlement Amount for the amount of attorneys' fees and Litigation
9 costs approved by the Court to Class Counsel. Should the Court approve a lesser percentage or
10 amount of fees and/or Litigation costs than the amount that Class Counsel ultimately seeks, then
11 the unapproved portion or portions shall become part of the Net Settlement Amount.

12 **XV. ENHANCEMENT TO NAMED PLAINTIFF**

13 Defendant shall not oppose an application by Named Plaintiff, and Named Plaintiff shall
14 not seek or receive an amount in excess of ten thousand dollars and zero cents (\$10,000.00), for
15 participation in and assistance with the Litigation. This amount is separate and distinct from
16 Named Plaintiff's individual Net Settlement Payment amount. Any enhancement awarded to
17 Named Plaintiff by the Court shall be deducted from the Settlement Amount for the purpose of
18 determining the Net Settlement Amount, and shall be reported on IRS Form 1099. If the Court
19 approves an enhancement of less than \$10,000.00 to Named Plaintiff, any unapproved portion or
20 portions shall become part of the Net Settlement Amount.

21 **XVI. TAXATION AND ALLOCATION**

22 The amount paid to each participating Settlement Class member shall be net of the
23 participating Settlement Class member's share of all federal, state and local taxes and required
24 withholdings, including without limitation, FICA, Medicare tax, FUTA, and state unemployment
25 taxes. The Employer Taxes for Defendant's share of taxes for the wage portions of the Settlement
26 Payment shall be paid by Defendant separately and in addition to Defendant's payment of the
27 Settlement Amount. The Parties agree that all employment taxes and other legally required
28 withholdings will be withheld from payments to the members of the Settlement Class and Named

1 Plaintiff based on the Parties stipulated allocation of the Net Settlement Amount as provided for
2 in this Section. The amount of federal income tax withholding will be based upon a flat
3 withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-
4 1(a)(2) as amended or supplemented.

5 Income tax withholding will also be made pursuant to applicable state and/or local
6 withholding codes or regulations. For withholding tax characterization purposes and payment of
7 taxes, the Net Settlement Amount shall be deemed and is allocated by the Parties as follows (“Net
8 Settlement Allocation”): (1) 20% as wages; (2) 40% as penalties; and (3) 40% as interest.

9 Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by
10 the Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement. If the Code,
11 the regulations promulgated thereunder, or other applicable tax law, is changed after the date of
12 this Agreement, the processes set forth in this Section may be modified in a manner to bring
13 Defendant into compliance with any such changes.

14 **CIRCULAR 230 DISCLAIMER.** EACH PARTY TO THIS STIPULATION OF
15 SETTLEMENT (FOR PURPOSES OF THIS SECTION, THE
16 “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS STIPULATION
17 OF SETTLEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
18 “OTHER PARTY” ACKNOWLEDGES AND AGREES THAT (1) NO
19 PROVISION OF THIS STIPULATION OF SETTLEMENT, AND NO WRITTEN
20 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE
21 PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
22 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR
23 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
24 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
25 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS
26 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
27 EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL
28 AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
CONNECTION WITH THIS STIPULATION OF SETTLEMENT, (B) HAS NOT
ENTERED INTO THIS STIPULATION OF SETTLEMENT 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

1 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX
2 TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
3 ANY TRANSACTION CONTEMPLATED BY THIS STIPULATION OF
4 SETTLEMENT.

4 **XVII. PRIVATE ATTORNEY GENERAL ACT ALLOCATION**

5 In order to implement the terms of this Settlement and to settle claims alleged under the
6 Private Attorneys' General Act ("PAGA"), California Labor Code section 2698 *et seq.*, the
7 Parties agree to allocate forty thousand dollars and zero cents (\$40,000.00) of the Settlement
8 Amount as the PAGA Settlement. Pursuant to the PAGA, seventy-five percent, or the sum of
9 \$30,000.00, will be paid to the LWDA, and twenty-five percent, or the sum of \$10,000.00, will
10 become part of the Net Settlement to be paid to Settlement Class members. Within fifteen (15)
11 calendar days following receipt of the Settlement funds from Defendant, the Settlement
12 Administrator shall disburse the \$30,000.00 to the LWDA.

13 **XVIII. COURT APPROVAL**

14 This Agreement and the Settlement is contingent upon Final Approval by the Court.
15 Named Plaintiff and Defendant agree to take all steps as may be reasonably necessary to secure
16 Preliminary Approval and Final Approval of the Settlement, to the extent not inconsistent with
17 the terms of this Agreement, and will not take any action adverse to each other in obtaining Court
18 approval, and, if necessary, appellate approval, of the Settlement in all respects. Named Plaintiff
19 and Defendant expressly agree that they will not file any objection to the terms of this Stipulation
20 of Settlement or assist or encourage any person or entity to file any such objection.

21 **XIX. MISCELLANEOUS PROVISIONS**

22 **A. Stay of Litigation.**

23 Named Plaintiff and Defendant agree to the stay of all discovery in the Litigation, pending
24 Final Approval of the Settlement by the Court.

25 **B. Interpretation of the Agreement.**

26 This Agreement constitutes the entire agreement between Named Plaintiff and Defendant.
27 Except as expressly provided herein, this Agreement has not been executed in reliance upon any
28 other written or oral representations or terms, and no such extrinsic oral or written representations

1 or terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties
2 agree that this Agreement is to be construed according to its terms and may not be varied or
3 contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the
4 laws of the State of California, both in its procedural and substantive aspects, without regard to
5 its conflict of laws provisions. Any claim arising out of or relating to the Agreement, or the
6 subject matter hereof, will be resolved solely and exclusively in the Superior Court of the State
7 of California for the County of Orange, and Named Plaintiff and Defendant hereby consent to the
8 personal jurisdiction of the Court over them solely in connection therewith. Named Plaintiff, on
9 her own behalf and on behalf of the Settlement Class, and Defendant participated in the
10 negotiation and drafting of this Agreement and had available to them the advice and assistance
11 of independent counsel. As such, neither Named Plaintiff nor Defendant may claim that any
12 ambiguity in this Agreement should be construed against the other. The terms and conditions of
13 this Agreement constitute the exclusive and final understanding and expression of all agreements
14 between Named Plaintiff and Defendant with respect to the Settlement of the Litigation. The
15 Agreement may be modified only by a writing signed by the original signatories and approved
16 by the Court.

17 **C. Further Cooperation.**

18 Named Plaintiff and Defendant and their respective attorneys shall proceed diligently to
19 prepare and execute all documents, to seek the necessary approvals from the Court, and to do all
20 things reasonably necessary or convenient to consummate the Agreement as expeditiously as
21 possible.

22 **D. Confidentiality of Documents.**

23 After the expiration of any appeals period, Named Plaintiff, the Settlement Administrator,
24 and Class Counsel shall maintain the confidentiality of all documents, deposition transcripts,
25 written discovery, declarations and other information obtained in the lawsuit, unless necessary
26 for appeal or such documents are ordered to be disclosed by the Court or by a subpoena.
27
28

1 **E. Counterparts.**

2 The Agreement may be executed in one or more actual or non-original counterparts, all
3 of which will be considered one and the same instrument and all of which will be considered
4 duplicate originals. Additionally, signatures delivered via facsimile or electronic transmission,
5 including pdf or DocuSign signatures, shall have the same force, validity and effect as the
6 originals thereof.

7 **F. Authority.**

8 Each individual signing below warrants that he or she has the authority to execute this
9 Agreement on behalf of the party for whom or which that individual signs.

10 **G. No Third Party Beneficiaries.**

11 Named Plaintiff, members of the Settlement Class, and Defendant are direct beneficiaries
12 of this Agreement, and there are no third party beneficiaries.

13 **H. Force Majeure.**

14 The failure of any party to perform any of its obligations hereunder shall not subject such
15 party to any liability or remedy for damages, or otherwise, where such failure is occasioned in
16 whole or in part by acts of God, fires, accidents, earthquakes, other natural disasters, explosions,
17 floods, wars, interruptions or delays in transportation, power outages, labor disputes or shortages,
18 shortages of material or supplies, governmental laws, restrictions, rules or regulations, sabotage,
19 terrorist acts, acts or failures to act of any third parties, or any other similar or different
20 circumstances or causes beyond the reasonable control of such party.

21 **I. Deadlines Falling on Weekends or Holidays.**

22 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
23 legal holiday, that deadline shall be continued until the following business day.

24 **J. Severability.**

25 In the event that any one or more of the provisions contained in this Agreement shall for
26 any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
27 unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel,
28 on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such

1 invalid, illegal, or unenforceable provision had never been included in this Agreement. Before
2 declaring any provision of this Agreement invalid, the Court shall first attempt to construe the
3 provisions as valid and enforceable to the fullest extent possible consistent with applicable law.

4 **K. Right to Terminate Settlement**

5 If ten percent (10%) or more members of the Settlement Class members exercise their
6 rights to exclude themselves and opt out of the Settlement, Defendant may, in its sole discretion,
7 unilaterally withdraw from and terminate the Settlement no later than five (5) days prior to the
8 date of the Final Approval Hearing. In the event of Defendant's withdrawal, no party may use
9 the fact that the Parties agreed to the Resolution for any reason. Moreover, in the event that
10 Defendant elects to terminate this Settlement, Defendant shall pay all of the Administrative Costs
11 incurred by the Settlement Administrator up to that point.

12 **L. Successors and Assigns**

13 This Settlement Agreement shall be binding upon, and inure to the benefit of, the
14 successors or assigns of the Parties hereto, as previously defined.

15 **M. Non-Approval of Settlement**

16 In the event that this Settlement is not granted final approval, this Agreement shall be
17 deemed void *ab initio* and the Parties shall be returned to their respective positions as though this
18 Agreement was never executed, including with respect to any releases of claims. Under these
19 circumstances the Parties shall split equally the Administrative Costs incurred to that point.

20 **N. Jurisdiction of the Court and Venue**

21 The Parties agree that this Settlement Agreement shall be enforceable by the Court
22 pursuant to California Code of Civil Procedure Section 664.6. The Court shall retain jurisdiction
23 with respect to the interpretation, implementation, and enforcement of the terms of this Settlement
24 Agreement and all orders and judgments entered in connection therewith, and the Parties and
25 their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing,
26 and enforcing the settlement embodied in this Settlement Agreement and all orders and judgments
27 entered in connection therewith. Any adjudicated dispute regarding the interpretation or validity
28 of or otherwise arising out of this Settlement Agreement, or relating to the Action or the Released

1 Claims, shall be subject to the exclusive jurisdiction of the California state courts in and for the
2 County of Los Angeles, and Named Plaintiff, Class Members, and Defendant agree to submit to
3 the personal and exclusive jurisdiction and venue of these courts. The prevailing party to any
4 such enforcement action shall be entitled to recover its attorneys' fees and costs incurred in such
5 enforcement action.

6
7 Dated: ~~February~~ January, 2021

NAMED PLAINTIFF:


Megan Arrington (Feb 10, 2021 17:34 PST)

MEGAN ARRINGTON

8
9
10 Dated: ~~January~~ February, 2021
11 2/4/20

DEFENDANT:

Nancy M. Murin
Digitally signed by Nancy M. Murin
DN: cn=Nancy M. Murin, c=US, o=Automatic
Data Processing Insurance Agency, Inc.,
ou=Legal, email=nancy.murin@adp.com
Reason: I am approving this document
Location: Office
Date: 2021.02.04 16:23:38 -0500

AUTOMATIC DATA PROCESSING
INSURANCE AGENCY, INC.

By:

12
13
14 **APPROVED AS TO FORM:**

15 Dated: February 11, 2021

DIVERISTY LAW GROUP, APC

16
17 By: 

LARRY W. LEE, ESQ.

Attorneys for Plaintiff MEGAN ARRINGTON

18
19 Dated: January ___, 2021

FISHER & PHILLIPS LLP

20
21 By: _____

SEAN T. KINGSTON

Attorneys for Defendant

AUTOMATIC DATA PROCESSING
INSURANCE AGENCY, INC.

1 Claims, shall be subject to the exclusive jurisdiction of the California state courts in and for the
2 County of Los Angeles, and Named Plaintiff, Class Members, and Defendant agree to submit to
3 the personal and exclusive jurisdiction and venue of these courts. The prevailing party to any
4 such enforcement action shall be entitled to recover its attorneys' fees and costs incurred in such
5 enforcement action.

6
7 Dated: January __, 2021

NAMED PLAINTIFF:

8 _____
9 MEGAN ARRINGTON

10 Dated: January __, 2021

DEFENDANT:

11 _____
12 AUTOMATIC DATA PROCESSING
13 INSURANCE AGENCY, INC.
14 By:

APPROVED AS TO FORM:


15 Dated: January __, 2021

DIVERISTY LAW GROUP, APC

16
17 By: _____
18 LARRY W. LEE, ESQ.
Attorneys for Plaintiff MEGAN ARRINGTON

19 Dated: January 30, 2021

FISHER & PHILLIPS LLP

20
21 By:  _____
22 SEAN T. KINGSTON
23 Attorneys for Defendant
24 AUTOMATIC DATA PROCESSING
25 INSURANCE AGENCY, INC.
26
27
28