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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MICKAEL M. GARCIA, individually and on
behalf of all similarly situated former
employees,

Plaintiff,

v.

SHE BALL PRODUCTIONS, LLC;
NCREDIBLE PRODUCTIONS, INC.
a.k.a. NCREDIBLE ENTERTAINMENT;
WORLDWIDE ONE MEDIA, LLC dba
ONE MEDIA WORLDWIDE; NICK
CANNON; DEMETRIUS V. SPENCER;
BENJAMIN F. SUMPTER III; MICHAEL
GOLDMAN; ROBERT KEETCH;
ROGER UBINA; GINA SCHEERER a.k.a.
GINA MACDONALD and DOES 1
through 10, inclusive,

Defendants.

Case No.: BC696517

*[Assigned for all purposes to the Hon.
David S. Cunningham]*

**SECOND AMENDED STIPULATION
AND SETTLEMENT OF CLASS,
COLLECTIVE, AND
REPRESENTATIVE ACTION**

1 Subject to final approval by the Court, which counsel and the Parties agree to diligently
2 pursue and recommend in good faith, Plaintiff Mickael M. Garcia (“Plaintiff”), individually and
3 on behalf of all others similarly situated and allegedly aggrieved employees, on the one hand, and
4 Defendants She Ball Productions, LLC (“She Ball”); Ncredible Productions, Inc. a.k.a. Ncredible
5 Entertainment; Worldwide One Media, LLC dba One Media Worldwide; Nick Cannon; Demetrius
6 V. Spencer; Benjamin F. Sumpter III; Michael Goldman; Robert Keetch; Roger Ubina; and Gina
7 Scheerer a.k.a. Gina Macdonald (collectively “Defendants”), on the other hand (collectively, the
8 “Parties” and individually, a “Party”), hereby agree to the following binding settlement of the
9 class, collective, and representative action designated *Mickael M. Garcia v. Defendants She Ball*
10 *Productions, LLC; Ncredible Productions, Inc. a.k.a. Ncredible Entertainment; Worldwide One*
11 *Media, LLC dba One Media Worldwide; Nick Cannon; Demetrius V. Spencer; Benjamin F.*
12 *Sumpter III; Michael Goldman; Robert Keetch; Roger Ubina; and Gina Scheerer a.k.a. Gina*
13 *Macdonald and Does 1 through 10, inclusive*, Los Angeles County Superior Court Case No.
14 BC696517 (the “Action”), pursuant to the terms and conditions set forth below (the “Settlement,”
15 “Settlement Agreement” or “Agreement”). The Parties shall file a Proposed Final Judgment with
16 the Motion for Final Approval.

17
18 **I. Definitions.**

19 The following definitions are applicable to this Settlement Agreement. Definitions
20 contained elsewhere in this Settlement Agreement will also be effective:

21 **A. “Action.”**

22 The case entitled *Mickael M. Garcia v. Defendants She Ball Productions, LLC;*
23 *Ncredible Productions, Inc. a.k.a. Ncredible Entertainment; Worldwide One Media, LLC dba One*
24 *Media Worldwide; Nick Cannon; Demetrius V. Spencer; Benjamin F. Sumpter III; Michael*
25 *Goldman; Robert Keetch; Roger Ubina; and Gina Scheerer a.k.a. Gina Macdonald and Does 1*
26 *through 10, inclusive*, Los Angeles County Superior Court Case No. BC696517, as amended.

1 **B. “Attorneys’ Fees and Costs.”**

2 The attorneys’ fees agreed upon by the Parties and approved by the Court for Class
3 Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Class
4 Counsel in the Action, including, but not limited to, costs associated with documenting the
5 Settlement, providing any notices required as part of the Settlement or Court’s Order, securing the
6 Court’s approval of the Settlement, administering the Settlement, and any expert expenses. Class
7 Counsel will request attorneys’ fees not to exceed one-third (1/3) of the Class Settlement Amount
8 of \$750,000.00, which is estimated at \$250,000.00. The costs requested to be reimbursed will not
9 exceed \$40,000.00. The attorneys’ fees and costs awarded are subject to the Court’s approval.
10 Defendants have agreed not to oppose Class Counsel’s request for attorneys’ fees and
11 reimbursement of costs and expenses as set forth above. Such Attorneys’ Fees and Costs shall be
12 paid from the Class Settlement Amount. Class Counsel will be issued an IRS Form 1099 for the
13 Attorneys’ Fees and Costs detailed in this Section and shall be solely and legally responsible for
14 paying all applicable taxes on the payment made pursuant to this Section.

15 **C. “Aggrieved Employee(s).”**

16 All “below-the-line” personnel who provided services during the pre-
17 production, production and/or post-production, and any reshoot and related production, of
18 the film “She Ball,” where “below the line” personnel refers to the personnel who provided
19 services behind-the-scenes on an as-needed basis to support the pre-production, production and/or
20 post-production and any reshoot and related production of the film including but not limited to set
21 dressers, camera, grip and electric technicians, craft services, hairstylists, make-up artists, security
22 personnel and teachers. “Below-the-line” is a film industry terms that refers to the separation of
23 story writers, producers, directors, actors, and casting (“above the-line”) and the rest of the crew or
24 production team. Individuals who opt out of the class shall still be deemed Aggrieved Employees.
25 Aggrieved Employees are “aggrieved employees” within the meaning of California Labor Code
26 section 2699(c).

27 **D. “Aggrieved Employee Time Period.”**

28 The period from January 19, 2017 through the date of Preliminary Approval.

1 **E. “Class Counsel.”**

2 Joshua F. Young, Joshua Adams and Benjamin M. O’Donnell from Gilbert &
3 Sackman, A Law Corporation, shall be appointed Class Counsel upon approval by the Court.

4 **F. “Class List.”**

5 A complete list of all Class Members (as that term is defined below) that
6 Defendants will diligently and in good faith compile from their records and provide to the
7 Settlement Administrator within fourteen (14) calendar days after Preliminary Approval of this
8 Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and
9 will include each Class Member’s full name, most recent mailing address, telephone number,
10 Social Security number (to the extent maintained by Defendants), whether or not the Class
11 Member has previously signed an individual settlement agreement and release with She Ball, the
12 number of days worked by the Class Member on the film “She Ball”, and any other relevant
13 information needed to calculate settlement payments.

14 **G. “Class Member(s).”**

15 All “below-the-line” personnel who provided services during the pre-production,
16 production and/or post-production, and any reshoot and related production, of the film “She Ball,”
17 where “below the line” personnel refers to the personnel who provided services behind-the-scenes
18 on an as-needed basis to support the pre-production, production and/or post-production and any
19 reshoot and related production of the film including but not limited to set dressers, camera, grip
20 and electric technicians, craft services, hairstylists, make-up artists, security personnel and
21 teachers. "Below-the-line" is a film industry terms that refers to the separation of story writers,
22 producers, directors, actors, and casting ("above the-line") and the rest of the crew or production
23 team.

24 **H. “Class Period.”**

25 The period of March 5, 2014 through the date of Preliminary Approval.

26 **I. “Class Representative Service Award.”**

27 The amount to be paid to Plaintiff in recognition of his risks, effort and work in
28 prosecuting the Action on behalf of Class Members and for his general release of claims. Subject

1 to the Court granting Final Approval of this Settlement Agreement, Plaintiff will request Court
2 approval of a Class Representative Service Award of \$5,000.00. Plaintiff will be issued an IRS
3 Form 1099 in connection with their Class Representative Service Award. Plaintiff shall be solely
4 and legally responsible for paying any and all applicable taxes on this payment and shall hold
5 Defendants harmless from any claim or liability for taxes, penalties or interest arising as a result of
6 the payment. The Class Representative Service Awards will be paid from the Class Settlement
7 Amount and will be in addition to Plaintiff's Individual Settlement Payment (as that term is
8 defined below) paid pursuant to this Settlement and is conditioned on the execution of a stand-
9 alone settlement agreement and general release of claims, a draft of which is attached here as
10 Exhibit "A." (a draft of which was provided to class counsel). Defendants make no
11 representations as to the tax treatment or legal effect of the payment called for herein, and Plaintiff
12 is not relying on any statement or representation by Defendants or their counsel in this regard.

13 **J. "Class Settlement Amount."**

14 The sum of no more than \$750,000.00 to be paid by She Ball, on behalf of all
15 Defendants, in full satisfaction of all claims alleged in and arising from the Action. This is a non-
16 reversionary settlement. The Class Settlement Amount includes all Individual Settlement
17 Payments to Class Members, the Class Representative Service Awards to Plaintiff, Settlement
18 Administration Costs to the Settlement Administrator, the Labor and Workforce Development
19 Agency Payment, and the Attorneys' Fees and Costs. She Ball, on behalf of all Defendants, will
20 be responsible for any employer payroll taxes required by law, separate and in addition to the
21 Class Settlement Amount, including the employer FICA, FUTA, and SDI contributions on the
22 wage portion of the Individual Settlement Payments.

23 **K. "Effective Date."**

24 The date on which the Final Award becomes final. For purposes of this Section,
25 the Final Award "becomes final" only after the Court grants the Motion for Final Approval and
26 upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing
27 of any appeal from, or other challenge to, the Order Granting Final Approval and/or Judgment
28 (this time period shall be no sooner than 75 calendar days after the Court's Order is entered); (ii)

1 the date of affirmance of an appeal of the Order Granting Final Approval and/or Judgment
2 becomes final under the California Rules of Court; or (iii) the date of final dismissal of any appeal
3 from the Order Granting Final Approval and/or Judgment or the final dismissal of any proceeding
4 on review of any court of appeal decision relating to the Order Granting Final Approval.

5 **L. “Final Approval” or “Final Award.”**

6 The Court entering an Order Granting Final Approval of the Settlement Agreement.

7 **M. “Individual Settlement Payment.”**

8 Each Class Member’s share of the Net Settlement Amount, which shall be
9 distributed to the Settlement Class Members, less employee portions of state and federal
10 withholding taxes, including the employee FICA, FUTA and SDI contributions and any other
11 applicable payroll deductions required by law as a result of the payment of the amount allocated to
12 such Class Member as set forth herein.

13 **N. “Individual PAGA Settlement Payment.”**

14 Each Aggrieved Employee’s pro rata share of twenty-five percent (25%) the PAGA
15 Settlement Amount.

16 **O. “LWDA Notice.”**

17 The Parties agree that Plaintiff will submit Notice to the Labor and Workforce
18 Development Agency (“LWDA”) of this Settlement along with a copy of this Settlement
19 Agreement concurrently when Plaintiff files his Motion for Preliminary Approval of Class Action
20 Settlement, and will thereafter submit a copy of any judgment or any other order (*e.g.*, the Final
21 Award) providing for an award of civil penalties in conformity with Labor Code Section 2699(l).

22 **P. “LWDA Payment.”**

23 The amount that the Parties have agreed to pay to the LWDA in connection with
24 the PAGA. Per Labor Code § 2699(i), seventy-five percent (75%) of the PAGA Settlement
25 Amount of Twenty Thousand Dollars and Zero Cents (\$20,000), or Fifteen Thousand Dollars and
26 Zero Cents (\$15,000.00) will be payable to the LWDA, and the remaining twenty-five percent
27 (25%), or Five Thousand Dollars and Zero Cents (\$5,000.00) of the PAGA Settlement Amount
28 will be paid to the Aggrieved Employees.

1 **Q. “Net Settlement Amount.”**

2 The portion of the Class Settlement Amount remaining after deduction of the
3 approved Class Representative Service Awards, Settlement Administration Costs, PAGA
4 Settlement Amount, and the Attorneys’ Fees and Costs.

5 **R. “Notice of Class Action Settlement.”**

6 The document substantially in the form attached as Exhibit 1 that will be mailed to
7 Class Members’ last known addresses and which will provide Class Members with information
8 regarding the Action and information regarding the Settlement of the Action.

9 **S. “Notice of Objection.”**

10 A Class Member’s valid and timely written objection to the Settlement Agreement.
11 For the Notice of Objection to be valid, it must include the objector’s full name, signature,
12 address, telephone number, the last four digits of his/her Social Security number, and a written
13 statement of all grounds for the objection accompanied by legal support, if any, for such objection,
14 including copies of any papers, briefs, or other documents upon which the objection is based. The
15 Notice of Objection must be returned by mail, fax or email to the Settlement Administrator at the
16 specified address or facsimile number and postmarked or faxed on or before the Response
17 Deadline. The date of the postmark or fax receipt confirmation will be the exclusive means to
18 determine whether a Notice of Objection has been timely submitted.

19 Class Members who fail to make objections in the manner specified above, or fail
20 to appear at the final approval hearing to state their objection shall be deemed to have waived any
21 objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to
22 the Settlement Agreement. Neither the Parties nor their counsel will solicit or otherwise
23 encourage Class Members to submit written objections to the Settlement Agreement or appeal
24 from the Order and Judgment. Class Counsel will not represent any Class Members with respect
25 to any such objections to this Settlement. The Settlement Administrator shall provide counsel for
26 the Parties with complete copies of all objections received, including the date of postmark or fax
27 receipt confirmation for each objection, within five (5) business days of receipt, and shall file any
28 objections received with the Court.

1 **T. “Notice Packet.”**

2 The Notice of Class Action Settlement and Individual Settlement Payment
3 calculations, to include workweek information, a proposed version of which is attached hereto as
4 Exhibit 1.

5 **U. “PAGA Settlement Amount”**

6 The Parties have agreed that \$20,000.00 of the Class Settlement Amount will be
7 allocated to the resolution of any Aggrieved Employees’ claims arising under the PAGA (“PAGA
8 Settlement Amount”). Seventy-five percent (75%) of the PAGA Settlement Amount of Twenty
9 Thousand Dollars and Zero Cents (\$20,000), or Fifteen Thousand Dollars and Zero Cents
10 (\$15,000.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Five
11 Thousand Dollars and Zero Cents (\$5,000.00) of the PAGA Settlement Amount will be paid to the
12 Aggrieved Employees on a pro rata basis.

13 **V. “Plaintiff.”**

14 Plaintiff Mickael M. Garcia.

15 **W. “Plaintiff’s Released Claims.”**

16 Upon the Release Effective Date, and as a condition of receiving any portion of his
17 Class Representative Awards, respectively, Plaintiff shall, in a separate and longform settlement
18 agreement, fully and finally release the Released Parties from any and all claims, known and
19 unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or
20 other source of law, including but not limited to claims arising from or related to the services he
21 provided or work he performed in connection with the pre-production, production and/or post-
22 production of the film “She Ball” during the months of November and December, 2017.
23 Plaintiff’s Released Claims include, but are not limited to, all claims arising from or related to the
24 Action. Plaintiff’s Released Claims include all claims for unpaid wages, including, but not limited
25 to, failure to pay minimum wages, straight time compensation, overtime compensation, double-
26 time compensation, and interest; the calculation of the regular rate of pay; missed meal period and
27 rest-period wages; for all hours worked, including off-the-clock work; wage statements;
28 deductions; failure to keep accurate records; unfair business practices; penalties, including, but not

1 limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and
2 waiting-time penalties; and attorneys' fees and costs. Plaintiff's Released Claims include all
3 claims arising under the California Labor Code (including, but not limited to, sections 200, 201,
4 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223,
5 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 227.3, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558,
6 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 *et seq.*, 2699 *et seq.*, and
7 2802); all claims arising under: the Wage Orders of the California Industrial Welfare Commission;
8 the California Private Attorneys General Act of 2004 (PAGA); California Business and
9 Professions Code section 17200, *et seq.*; the California Civil Code, to include but not limited to,
10 sections 3287, 3336 and 3294; 12 CCR § 11040; 8 CCR § 11060; California Code of Civil
11 Procedure § 1021.5; the California common law of contract; the Fair Labor Standards Act
12 ("FLSA"), 29 U.S.C. § 201, *et seq.*; 29 CFR 778.223; 29 CFR 778.315; federal common law; and
13 the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* (ERISA). Plaintiff's
14 Released Claims also include all claims for lost wages and benefits, emotional distress, retaliation,
15 punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for
16 discrimination, harassment, retaliation, and wrongful termination, such as, by way of example
17 only, (as amended) 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the Americans
18 with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and the
19 California Fair Employment and Housing Act (FEHA); and the law of contract and tort. This
20 release excludes the release of claims not permitted by law including claims for workers'
21 compensation benefits.

22 Plaintiff's Released Claims include all claims, whether known or unknown. Even if
23 Plaintiff discovers facts in addition to or different from those that he now knows or believes to be
24 true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain
25 released and forever barred. Thus, Plaintiff expressly waives and relinquishes the provisions,
26 rights and benefits of section 1542 of the California Civil Code, which reads:

27 **A general release does not extend to claims that the creditor or releasing party**
28 **does not know or suspect to exist in his or her favor at the time of executing**

1 the release, and that, if known by him or her would have materially affected
2 his or her settlement with the debtor or released party.

3 **X. "Preliminary Approval."**

4 The Court's order granting preliminary approval of the Settlement Agreement.

5 **Y. "Qualified Settlement Account."**

6 The fund established by the Settlement Administrator pursuant to Internal Revenue
7 Code Section 1.468B-1.

8 **Z. "Released Aggrieved Employee Claims."**

9 All Aggrieved Employees, including those who timely and effectively exclude
10 themselves from the Class Settlement, shall nevertheless be deemed to release, on behalf of
11 themselves and the LWDA and their respective former and present representatives, agents,
12 attorneys, heirs, administrators, successors, and assigns, their Released Aggrieved Employee
13 Claims and shall receive a pro rata portion of 25% of the PAGA Settlement Amount. Aggrieved
14 Employees who timely and effectively exclude themselves from the Class Settlement shall have
15 their PAGA claims released only for the Aggrieved Employee Time Period. The Released
16 Aggrieved Employee Claims shall be any and all claims that were alleged in the Second Amended
17 Complaint, or reasonably could have been alleged, based on the facts stated in the Second
18 Amended Complaint and the January 19, 2018 LWDA exhaustion letter. Those claims include,
19 but are not limited to, the claim for penalties specifically alleged in the Second Amended
20 Complaint and/or January 19, 2018 LWDA exhaustion letter for: misclassification; failure to
21 provide employees with meal periods; failure to authorize and permit rest periods; failure to pay
22 wages at least twice per month; failure to pay wages when due, including at time of termination;
23 failure to provide employees with accurate itemized wage statements; failure to pay wages for all
24 time worked; failure to pay correct wages; failure to pay employees at applicable overtime rates
25 for hours worked in excess of 8 in a day and 40 in a week; and failure to provide Workers
26
27
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1 Compensation Insurance. Those claims include, but are not limited to, the claims for penalties
2 specifically alleged in the Second Amended Complaint and/or January 19, 2018 LWDA
3 exhaustion letter for violations of Labor Code sections: 226.8, 201.5, 202, 204, 208, 226, 226.6,
4 226.7, 510, 512, 558.1, and 1182.12.

5 **AA. "Released Class Claims."**

6 As of the Release Effective Date, all Class Members who do not timely submit a
7 valid Request for Exclusion (as that term is defined below) shall fully and finally release Released
8 Parties of the Released Class Claims. The Released Class Claims include any and all claims
9 alleged in the Second Amended Complaint and any claims that reasonably could have been
10 alleged based on the facts stated in the Second Amended Complaint and ascertained in the course
11 of the Action. The Released Class Claims include, but are not limited to, any and all claims for:
12 misclassification; failure to keep adequate records of hours of work; failure to pay wages for all
13 time worked; failure to pay correct wages; failure to pay employees at applicable overtime rates
14 for hours worked in excess of 8 in a day and 40 in a week; failure to provide employees with
15 accurate itemized wage statements; failure to pay wages when due, including at time of
16 termination; failure to provide employees with meal periods (or premium pay in lieu thereof
17 calculated at the regular rate of pay); failure to authorize and permit rest periods (or premium pay
18 in lieu thereof calculated at the regular rate of pay); engaging in business practices that are
19 forbidden by law; and engaging in unfair business practices. Those claims include, but are not
20 limited to, the claims specifically alleged in the Second Amended Complaint for: violations of
21 Labor Code sections 201.5, 202, 203, 204, 208, 218.6, 226, 226.7, 226.8, 510, 512, 558, 1182.12,
22 1194, 1197.1, and 1199; Sections 3, 4, 11 and 12 of Wage Order No. 12-2001; the FLSA, 29
23 U.S.C § 201 *et seq.*; Business and Professions Code section 17200 *et seq.*; and Section 1021.5 of
24 the California Code of Civil Procedure. This release excludes the release of claims not permitted
25 by law.
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1 Class Members who timely cash or otherwise negotiate their Settlement Payment
2 Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those
3 Class Members, the Released Class Claims include any and all claims the Class Members may
4 have under the FLSA arising under or related to the alleged claims during the Class Period. Only
5 those Class Members who timely cash or otherwise negotiate their Settlement Payment Check will
6 be deemed to have opted into the Action for purposes of the FLSA.

7 Upon entry of Judgment, Class Members are precluded from filing a wage and hour
8 action under the FLSA against the Released Parties for claims and/or causes of action
9 encompassed by the Released Class Claims which are extinguished and precluded pursuant to the
10 holding in Rangel v. PLS Check Cashers of California, Inc., 899 F.3d 1106 (9th Cir. 2018). This
11 release excludes the release of claims not permitted by law. The following language will be
12 printed on the reverse of each Settlement Payment Check, or words to this effect: “By endorsing
13 or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms
14 set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards
15 Act (“FLSA”) portion of the [Action], elect to participate in the settlement of the FLSA claims,
16 and agree to release all of my FLSA claims that are covered by the Settlement.”

17 **BB. “Release Effective Date.”**

18 The “Release Effective Date” shall be the date upon which the entirety of the Class
19 Settlement Amount has been paid by Defendants into the Qualified Settlement Account
20 established by the Settlement Administrator pursuant to this Agreement.

21 **CC. “Released Parties.”**

22 Defendants and each of their past, present and future agents, employees, servants,
23 officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, owners
24 (both direct and indirect), parents, subsidiaries, equity sponsors, related companies/corporations
25 and/or partnerships, temporary staffing firms, divisions, assigns, predecessors, successors,
26 insurers, consultants, service providers, joint venturers, joint employers, co-employers, dual
27 employers, common law employers, potential and alleged joint employers, potential and alleged
28 co-employers, potential and alleged dual employers, potential and alleged common law employers,

1 affiliates, alter-egos, and affiliated organizations, and any person/entity with potential or alleged
2 joint liability, and all of their respective past, present and future employees, directors, officers,
3 agents, attorneys, stockholders, fiduciaries, parents, subsidiaries and assigns.

4 **DD. "Request for Exclusion."**

5 A notice submitted by a Class Member requesting to be excluded from the
6 Settlement. For the Request for Exclusion to be valid, it must include the Class Member's full
7 name, signature, address, telephone number and a written statement requesting to be excluded
8 from this Settlement. The Request for Exclusion must be returned by mail or fax to the Settlement
9 Administrator at the specified address or facsimile number and postmarked or faxed on or before
10 the Response Deadline. The date of the postmark or fax receipt confirmation will be the exclusive
11 means to determine whether a Request for Exclusion has been timely submitted. A Class Member
12 who does not submit a timely and valid Request for Exclusion from the Settlement will be deemed
13 a Class Member and will be bound by all terms of the Settlement Agreement if the Settlement is
14 granted Final Approval by the Court. Any Class Member who timely submits a valid Request for
15 Exclusion will not receive payment from the Settlement, and will not be bound by the terms of the
16 Settlement Agreement or Judgment (with the exception of claims arising under the PAGA).
17 Eligible Aggrieved Employees will receive their share of the employee portion of the PAGA
18 Settlement Amount and will be deemed to have released any claims arising out of PAGA,
19 regardless of whether they submit a Request for Exclusion.

20 **EE. "Response Deadline."**

21 The deadline by which Class Members must mail or fax to the Settlement
22 Administrator valid Requests for Exclusion, Notices of Objection to the Settlement, or workweek
23 disputes. The Response Deadline will be forty-five (45) calendar days from the initial mailing of
24 the Notice Packet by the Settlement Administrator, unless the 45th day falls on a Sunday or
25 Federal holiday, in which case the Response Deadline will be extended to the next day on which
26 the U.S. Postal Service is open. The Response Deadline for Requests for Exclusion, Notices of
27 Objection, and days of work disputes will be extended fifteen (15) calendar days for any Class
28 Member who is re-mailed a Notice Packet by the Settlement Administrator, unless the 15th day

1 falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the
2 next day on which the U.S. Postal Service is open. The Response Deadline may also be extended
3 by express agreement between Class Counsel and Defendant. Under no circumstances, however,
4 will the Settlement Administrator have the authority to unilaterally extend the deadline for Class
5 Members to submit a Request for Exclusion, Notice of Objection to the Settlement, or workweek
6 disputes.

7 **FF. “Satisfaction of Judgment.”**

8 Upon the Effective Date and payment by She Ball, on behalf of all Defendants, of
9 all monies due under the Settlement Agreement and entry of the Order Granting Final Approval,
10 the Plaintiff shall file a Satisfaction of Judgment with the Court.

11 **GG. “Second Amended Complaint.”**

12 The Second Amended Complaint which Plaintiff filed on November 4, 2021.

13 **HH. “Settlement Administrator.”**

14 KCC, Inc. shall be the third-party class action settlement administrator as agreed to
15 by the Parties and approved by the Court for the purposes of administering this Settlement. The
16 Parties each represent that they do not have any financial interest in the Settlement Administrator
17 or otherwise have a relationship with the Settlement Administrator that could create a conflict of
18 interest.

1 **II. “Settlement Administration Costs.”**

2 The costs payable from the Class Settlement Amount to the Settlement Administrator for
3 administering this Settlement, including, but not limited to, printing, distributing, and tracking
4 documents for this Settlement, calculating estimated amounts per Class Member, tax reporting,
5 distributing the Class Settlement Amount, and providing necessary reports and declarations, and
6 other duties and responsibilities set forth herein to process this Settlement Agreement, and as
7 requested by the Parties. The Settlement Administration Costs will be paid from the Class
8 Settlement Amount, including, if necessary, any such costs in excess of the amount represented by
9 the Settlement Administrator as being the maximum costs necessary to administer the Settlement,
10 which are anticipated to be no greater than \$20,000.00. To the extent actual Settlement
11 Administration Costs are greater than \$20,000.00, such excess amount will be deducted from the
12 Class Settlement Amount, subject to the Court’s approval. The Settlement Administration Costs
13 will be paid no sooner than fifteen (15) calendar days following the Effective Date.

14 **JJ. “Settlement Class” or “Settlement Class Member(s).”**

15 The group of Class Members who do not timely submit a valid Request for
16 Exclusion Upon the Effective Date will be referred to as the “Settlement Class” or “Settlement
17 Class Members” and individually as a “Settlement Class Member.”

18 **KK. “Settlement Payment Check.”**

19 The payment to Class Members. The back of the Settlement Payment Check shall
20 state, immediately below the space where the check is to be endorsed by the payee: “By endorsing
21 or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms
22 set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards
23 Act (“FLSA”) portion of the [Action], elect to participate in the settlement of the FLSA claims,
24 and agree to release all of my FLSA claims that are covered by the Settlement.”

25 **II. Funding of the Class Settlement Amount.**

26 Within thirty (30) calendar days from the Effective Date of the Settlement, She Ball, on behalf of
27 all Defendants, will make a one-time deposit of all approved amounts from the Class Settlement Amount
28 into a Qualified Settlement Account to be established by the Settlement Administrator. Within seven (7)

1 calendar days of the full funding of the Qualified Settlement Account, the Settlement Administrator will
2 issue payments to: (a) Class Members; (b) the Labor and Workforce Development Agency (LWDA); (c)
3 Aggrieved Employees; (d) Plaintiff; and (e) Class Counsel. The Settlement Administrator will also issue a
4 payment to itself for Court-approved services performed in connection with the Settlement. She Ball, on
5 behalf of Defendants, has no obligation to deposit such funds prior to the deadlines set forth herein.

6 **III. Attorneys' Fees and Costs.**

7 1. Defendants agree not to oppose or impede any application by Class Counsel for attorneys'
8 fees of not more than \$250,000.00 or the reimbursement of costs and expenses associated with Class
9 Counsel's litigation and settlement of the Action not to exceed \$40,000.00. No counsel shall be entitled to
10 attorneys' fees or costs for work performed in the Action other than as provided in this Settlement
11 Agreement. The instant Settlement Agreement is the exclusive means for recovery of attorneys' fees and
12 costs incurred in the Action by any attorney, law firm and/or other legal services provider.

13 **IV. Class Representative Service Award.**

14 2. In exchange for a general release and in recognition of his effort and work in prosecuting
15 the Action on behalf of Class Members, Defendants agree not to oppose or impede any application or
16 motion for Class Representative Service Awards in the amount of up to \$5,000.00 for Plaintiff. The Class
17 Representative Service Awards will be paid from the Class Settlement Amount and will be in addition to
18 Plaintiff's Individual Settlement Payment paid pursuant to the Settlement, and is conditioned on the
19 execution of the long-form settlement agreement and general release of claims. Plaintiff will be solely and
20 legally responsible to pay any and all applicable taxes on the payment made pursuant to this Section and
21 will indemnify and hold Defendants harmless from any claim or liability for taxes, penalties, or interest
22 arising as a result of the payment.

23 **V. Settlement Administration Costs.**

24 3. The Settlement Administrator will be paid for the reasonable costs of administration of the
25 Settlement and distribution of payments from the Class Settlement Amount, which are currently estimated
26 to be \$20,000.00.

4. The Parties hereby acknowledge that the Settlement Administration Costs may increase above the current estimate of \$20,000.00 and that any such additional Settlement Administration Costs that are approved by the Parties' counsel and the Court shall be taken out of the Class Settlement Amount.

VI. Labor and Workforce Development Agency Payment.

5. Subject to Court approval, the Parties agree that \$20,000.00 of the Class Settlement Amount will be designated for satisfaction of Plaintiff's and Class Members' PAGA claims (the "PAGA Settlement Amount"). Per Labor Code § 2699(i), seventy-five percent (75%) of the PAGA Settlement Amount, or \$15,000.00, will be paid to the LWDA and twenty-five percent (25%) or \$5,000.00 of the PAGA Settlement Amount will be paid to Aggrieved Employees on a pro rata basis based on the total number of Workdays (defined below).

VII. Net Settlement Amount.

6. The Net Settlement Amount will be used to satisfy Individual Settlement Payments to the Settlement Class in accordance with the terms of this Settlement.

VIII. Individual Settlement Payment Calculations.

7. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount as follows:

- 7(a) The Settlement Administrator will calculate the total number of Settlement Class Members.
- 7(b) The Settlement Administrator will calculate the total number of days worked by each participating Settlement Class Member ("Workdays").
- 7(c) To determine each the Individual Settlement Payment, the Claims Administrator will use the following formula: the Net Settlement Amount will be divided by the total number of Workdays for all participating Settlement Class Members, and participating Settlement Class Members will receive a pro rata share of the Net Settlement Amount based on their number of Workdays, less any amount in 7(d), below.
- 7(d) The Settlement Administrator shall subtract any amounts received by Settlement Class Members who previously signed an individual settlement

1 agreement and release from their shares, and redistribute these funds among
2 the remaining Settlement Class Members pro rata based on the total number of
3 Workdays worked by the remaining Settlement Class Members.

4 Notwithstanding, each Settlement Class Member shall have a minimum
5 payment of \$100.00, irrespective of whether the Settlement Class Member
6 previously signed an individual settlement agreement and release.

7 8. As detailed in Section XII, below, the Individual Settlement Payment will be reduced by
8 any required deductions for each Class Member as set forth herein, including employee-side tax
9 withholdings or deductions.

10 9. The Individual Settlement Payments made to Class Members under this Settlement, and
11 any other payments made pursuant to this Settlement, will not be utilized to calculate any additional
12 benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to,
13 profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO
14 plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not
15 affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit
16 plans.

17 **IX. Individual PAGA Settlement Payment Calculations.**

18 10. Individual PAGA Settlement Payments will be calculated and apportioned from
19 the Five-Thousand Dollars and Zero Cents (\$5,000) remaining PAGA Settlement Payment as follows:

20 10(a) The Settlement Administrator will calculate the total number of Aggrieved
21 Employees.

22 10(b) The Settlement Administrator will calculate the total number of Workdays.

23 10(c) To determine each Individual PAGA Settlement Payment, the Claims
24 Administrator will use the following formula: the remaining PAGA Settlement
25 Payment of Five-Thousand Dollars and Zero Cents (\$5,000) will be divided
26 by the total number of Workdays for all Aggrieved Employees, and Aggrieved
27 Employees will receive a pro rata share of the remaining PAGA Settlement
28 Payment based on their number of Workdays.

1 **X. Settlement Administration Process.**

2 11. The Parties agree to cooperate in the administration of the Settlement and to make all
3 reasonable efforts to control and minimize the costs and expenses incurred in administration of the
4 Settlement. The Settlement Administrator will provide the following services:

- 5 a. Establish and maintain a Qualified Settlement Account.
- 6 b. Calculate the Individual Settlement Payment each Class Member is eligible to
7 receive.
- 8 c. Translate the Notice Packet into Spanish by request of Class Members.
- 9 d. Print and mail the Notice Packet.
- 10 e. Establish and maintain a toll-free information telephone support line to assist Class
11 Members who have questions regarding the Notice Packet.
- 12 f. Conduct additional address searches for mailed Notice Packets that are returned as
13 undeliverable.
- 14 g. Process Requests for Exclusion, calculate Class Members' Individual Settlement
15 Payments, field inquiries from Class Members, and administer any Requests for
16 Exclusion. This service will include settlement proceed calculation, printing and
17 issuance of Settlement Payment Checks, and preparation of IRS W-2 and 1099
18 Tax Forms. Basic accounting for and payment of employee tax withholdings and
19 forwarding all payroll taxes and penalties to the appropriate government authorities
20 will also be included as part of this service.
- 21 h. Issuing to Plaintiff, Class Members, and Plaintiff's Counsel any W-2, 1099, or
22 other tax forms as may be required by law for all amounts paid pursuant to this
23 Settlement.
- 24 i. Provide declarations and/or other information to the Court as requested by the
25 Parties and/or the Court.
- 26 j. Provide weekly status reports to counsel for the Parties.

27 12. Within fourteen (14) calendar days of Preliminary Approval, Defendants will provide the
28 Class List to the Settlement Administrator.

1 13. Within fourteen (14) calendar days after receiving the Class List from She Ball, on behalf
2 of all Defendants, the Settlement Administrator will mail a Notice Packet to all Class Members via regular
3 First-Class U.S. Mail, using the last known mailing addresses identified in the Class List.

4 14. Prior to mailing, the Settlement Administrator will perform a search based on the National
5 Change of Address Database for information to update and correct any known or identifiable address
6 changes. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the
7 Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address
8 affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice
9 Packet. If no forwarding address is provided, the Settlement Administrator will promptly attempt to
10 determine the correct address using a skip-trace, or other search using the name, address and/or Social
11 Security number of the Class Member involved, and will then perform a single re-mailing. Those Class
12 Members who receive a re-mailed Notice Packet, whether by skip-trace or by request, will have between
13 the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark or fax a
14 Request for Exclusion, Notice of Objection to the Settlement, or workweek dispute.

15 15. All Class Members will be mailed a Notice Packet containing the form attached as Exhibit
16 1 as approved by the Court.

17 16. Class Members will have an opportunity to dispute the information provided in their
18 Notice Packets. To the extent Class Members dispute whether they have previously signed an individual
19 settlement and release with She Ball or how many days they worked, Class Members may produce
20 evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence
21 rebutting Defendants' records, Defendants' records will be presumed determinative. However, if a Class
22 Member produces evidence to the contrary, the Settlement Administrator will evaluate the evidence
23 submitted by the Class Member and will make the final decision. The evidence related to the dispute must
24 be returned by mail or fax to the Settlement Administrator at the specified address or facsimile number and
25 postmarked or faxed on or before the Response Deadline. The date of the postmark or fax receipt
26 confirmation will be the exclusive means to determine whether a dispute has been timely submitted. All
27 such disputes are to be resolved not later than fourteen (14) calendar days after the Response Deadline.
28

1 17. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
2 Settlement Agreement must sign and postmark or fax a written Request for Exclusion to the Settlement
3 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope or
4 the fax receipt confirmation will be the exclusive means to determine whether a Request for Exclusion has
5 been timely submitted. All Requests for Exclusion will be submitted to the Settlement Administrator, who
6 will certify jointly to Class Counsel and Defendants' Counsel the Requests for Exclusion that were timely
7 submitted. Any Class Member who does not timely seek exclusion will be bound by the terms of this
8 Settlement Agreement.

9 18. Objections. Class Members who do not submit a Request for Exclusion may object to this
10 Settlement as explained in the Notice Packet by filing a written objection with the Settlement Administrator
11 (who shall serve all objections as received on Class Counsel and Defendants' counsel, as well as file all
12 such objections with the Court) within the Response Deadline, or by appearing at the final approval hearing
13 to state their objection. Defendants' counsel and Class Counsel shall file any responses to objections no
14 later than the deadline to file the Motion for Final Approval, unless an objection is filed within ten (10) days
15 of the Motion for Final Approval filing deadline, in which case Defendants' counsel and Class Counsel
16 shall have ten (10) days to respond. To be valid, any written objection must: (1) contain the objecting
17 Class Member's full name and current address, and the last four digits of the Class Member's Social
18 Security number, as well as contact information for any attorney representing the objecting Class Member
19 for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include
20 any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be
21 postmarked no later than the Response Deadline.

22 19. Defective Submissions. If a Class Member's dispute regarding the existence of a prior
23 individual settlement agreement and release with She Ball, dispute regarding the number of days worked,
24 Objection, or Request for Exclusion is defective as to the requirements listed herein, that Class Member
25 will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Class
26 Member a cure letter within three (3) business days of receiving the defective submission to advise the
27 Class Member that his or her submission is defective and that the defect must be cured to render the
28 dispute, Objection or Request for Exclusion valid. The Class Member will have until the later of (a) the

1 Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date is later,
2 to postmark or fax a revised workweek dispute, Objection or Request for Exclusion.

3 **XI. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

4 20. Defendants' Option to Nullify the Settlement Agreement. If five percent (5%) or more of
5 the Class Members opt out of the Settlement (or are otherwise excluded), Defendant, in its sole discretion,
6 shall have the option of nullifying the Settlement Agreement. In such a case, the Parties and any funds to
7 be awarded under this Settlement Agreement shall be returned to their respective statuses as of the date and
8 time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if
9 this Settlement Agreement had not been executed, except that any fees already incurred by the Settlement
10 Administrator shall be paid by She Ball, on behalf of all Defendants, due to its sole election to nullify the
11 Agreement.

12 21. Nullification of the Settlement Agreement. In the event: (i) the Court does not enter the
13 Preliminary Approval Order and approve the Released Class Claims specified herein; (ii) the Court does
14 not finally approve the Settlement as provided herein; (iii) Defendants exercise their option to nullify the
15 Settlement Agreement based on an excessive number of opt-outs, as described in the above Section; or
16 (iv) the Settlement does not become final for any other reason (*e.g.*, an objection by the LWDA), this
17 Settlement Agreement shall be null and void. Any order or judgment entered by the Court in furtherance of
18 this Settlement Agreement shall be treated as void from the beginning, and the Stipulations and Recitals
19 contained herein shall be of no force or effect, and shall not be treated as an admission by the Parties or
20 their counsel. In such a case, the Parties and any funds to be awarded under this Settlement Agreement
21 shall be returned to their respective statuses as of the date and time immediately prior to the execution of
22 this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had
23 not been executed, except that any fees already incurred by the Settlement Administrator shall be paid
24 equally by both Parties.

25 22. Settlement Terms Bind All Class Members Who Do Not Opt Out. Any Class Member
26 who does not affirmatively opt out of the Settlement Agreement by submitting a timely and valid Request
27 for Exclusion will be bound by all its terms, including those pertaining to the Released Class Claims.

1 **XII. Certification Reports Regarding Individual Settlement Payment Calculations.**

2 23. The Settlement Administrator will provide Defendants' counsel and Class Counsel a
3 weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for
4 Exclusion; (b) any objections submitted to the Settlement along with a copy of any such objection; and (c)
5 whether any Class Member has submitted a challenge to any information contained in his/her Notice
6 Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated
7 reports regarding the administration of the Settlement Agreement as needed or requested.

8 24. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to Class
9 Members will be negotiable for one-hundred eighty (180) calendar days. After one-hundred eighty (180)
10 calendar days from the date of mailing, the checks shall become null and void, and any monies remaining
11 in the distribution account shall be distributed to the Controller of the State of California to be held pursuant
12 to the Unclaimed Property Law, California Civil Code § 1500 et seq., for the benefit of those Class
13 Members who did not cash their checks until such time that they claim their property. The Parties agree
14 that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the
15 entire Settlement Payment will be paid out, whether or not all Class Members cash their Settlement
16 Checks. Therefore, Defendants will not be required to pay any interest on said amount.

17 25. Certification of Completion. Upon completion of administration of the Settlement, the
18 Settlement Administrator will provide a written declaration under oath to certify such completion to the
19 Court and counsel for all Parties.

20 **XIII. Tax Treatment of Individual Settlement Payments.**

21 Without conceding and/or admitting any liability, all Individual Settlement Payments will
22 be allocated as follows: one-third (33.3%) of each Individual Settlement Payment will be allocated
23 as wages, one-third (33.3%) as non-wage penalties, and one-third (33.3%) as non-wage interest.
24 The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated to
25 non-wages will be reported on an IRS Form-1099 by the Settlement Administrator. The Gross
26 Individual Settlement Payments will be reduced by any required legal deductions for each Class
27 Member. All standard employee payroll deductions will be made for state and federal withholding
28 taxes, including any other applicable payroll deductions owed by the Class Members as a result of

1 the Wage Component, resulting in a net wage component. The Settlement Administrator will
2 issue a check and W-2 Form to each Class Member for the wage component. No withholding
3 shall be made on the penalty and interest portion of the Gross Individual Settlement Payment. The
4 Settlement Administrator will issue a second check and IRS Form-1099 for the remaining penalty
5 component. The Settlement Administrator shall be responsible for issuing the payments and
6 calculating and withholding all required state and federal taxes. The Settlement Administrator
7 shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under
8 the terms of this Settlement Agreement. Any disputes not resolved by the Settlement
9 Administrator concerning the administration of the Settlement will be resolved by the Court, under
10 the laws of the State of California. Prior to any such involvement of the Court, counsel for the
11 Parties will confer in good faith to resolve the dispute without the necessity of involving the Court.

12 **XIV. Administration of Taxes by the Settlement Administrator.**

13 26. Tax Liability. Defendants makes no representation as to the tax treatment or legal effect of
14 the payments called for hereunder, and Plaintiff and Class Members are not relying on any statement,
15 representation, or calculation by Defendants, Class Counsel or by the Settlement Administrator in this
16 regard. Plaintiff and Class Members understand and agree they will be solely responsible for the payment
17 of their share of any taxes and penalties assessed on the payments described herein.

18 27. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT
19 (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY
20 TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
21 “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
22 SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
23 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS
24 OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
25 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
26 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10,
27 AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON
28 HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE

1 (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT,
2 (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE
3 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
4 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
5 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY
6 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
7 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
8 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
9 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING)
10 UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR
11 TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
12 CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

13 **XV. Release by Class Members.**

14 28. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that
15 they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
16 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right
17 herein released and discharged.

18 29. It is the desire of Plaintiff, Class Members (except those who exclude themselves from the
19 Settlement), and Defendants to fully, finally, and forever settle, compromise, and discharge the Released
20 Class Claims, as defined above. Upon the Release Effective Date, the Class Members shall fully release
21 and discharge the Released Parties from any and all Released Class Claims for the entire Class Period.
22 This release shall be binding on all Class Members who have not timely submitted a valid and complete
23 Request for Exclusion, including each of their respective attorneys, agents, spouses, executors,
24 representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the
25 Released Parties, who shall have no further or other liability or obligation to any Class Member with
26 respect to the Released Class Claims, except as expressly provided herein.

27
28

1 **XVI. Preliminary Approval Hearing.**

2 30. Plaintiff will obtain a hearing before the Court to request Preliminary Approval of the
3 Settlement Agreement and the entry of a Preliminary Approval Order for: (a) conditional certification of
4 the Settlement Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement
5 Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing.

6 31. The Preliminary Approval Order will provide for the Notice Packet to be sent to all Class
7 Members as specified herein. In conjunction with the Preliminary Approval Hearing, Plaintiff will submit
8 this Settlement Agreement and will include the proposed Notice Packet.

9 32. Class Counsel will be responsible for drafting all documents necessary to obtain
10 Preliminary Approval, subject to review and comment by Defendants' counsel. Any failure by the Court to
11 fully and completely approve the Settlement Agreement which has the effect of preventing the full and
12 complete approval of the Settlement Agreement as written and agreed to by the Parties will result in this
13 Settlement Agreement, and all obligations under this Settlement Agreement, being nullified and voided.

14 **XVII. Final Settlement Approval Hearing and Entry of Judgment.**

15 33. Upon expiration of the Response Deadline, and with the Court's permission, a Final
16 Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the Settlement
17 Agreement along with the amounts properly payable for: (a) Individual Settlement Payments; (b) the
18 LWDA Payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative Service Award; and (e)
19 all Settlement Administration Costs.

20 34. The Final Approval/Settlement Fairness Hearing will be held no later than forty-five (45)
21 calendar days after the Response Deadline.

22 35. Class Counsel will be responsible for drafting all documents necessary to obtain Final
23 Approval, subject to review and comment by Defendants' counsel. Any failure by the Court to fully and
24 completely approve the Settlement Agreement will result in this Settlement Agreement entered into by the
25 Parties, and all obligations under this Settlement Agreement, being nullified and voided. Upon such
26 failure, any order or judgment entered by the Court in furtherance of this Settlement Agreement shall be
27 treated as void from the beginning, and the Stipulations and Recitals contained herein shall be of no force
28 or effect and shall not be treated as an admission by the Parties or their counsel. In such a case, the Parties

1 and any funds to be awarded under this Settlement Agreement shall be returned to their respective statuses
2 as of the date and time immediately prior to the execution of this Settlement Agreement, and the Parties
3 shall proceed in all respects as if this Settlement Agreement had not been executed, except that any fees
4 already incurred by the Settlement Administrator shall be paid equally by both Parties.

5 **XVIII. Judgment and Continued Jurisdiction.**

6 36. The Court shall retain jurisdiction with respect to the interpretation, implementation, and
7 enforcement of the terms of this Settlement Agreement and all orders and judgments entered in connection
8 therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of
9 interpreting, implementing, and enforcing the Settlement embodied in this Settlement Agreement and all
10 orders and judgments entered in connection therewith.

11 **XIX. Other Provisions.**

12 37. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set
13 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein.
14 Any Exhibits to this Settlement are an integral part of the Settlement.

15 38. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
16 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements
17 may be deemed binding on the Parties.

18 39. Amendment or Modification. This Settlement Agreement may be amended or modified
19 only by a written instrument signed by counsel for all Parties or their successors-in-interest and approved
20 by the Court.

21 40. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
22 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
23 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to
24 this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate
25 the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and
26 use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach
27 agreement on the form or content of any document needed to implement the Settlement, or on any
28

1 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties
2 may seek the assistance of Jeffrey Krivis (mediator) to resolve such disagreement.

3 41. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and
4 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

5 42. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will
6 be governed by and interpreted according to the laws of the State of California.

7 43. Execution and Counterparts. This Settlement Agreement is subject only to the execution
8 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
9 executed counterparts and each of them, including facsimile, scanned and electronic copies of the signature
10 page (including DocuSign), will be deemed to be one and the same instrument.

11 44. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
12 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
13 Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all
14 relevant factors, present and potential. The Parties further acknowledge that they are each represented by
15 competent counsel and that they have had an opportunity to consult with their counsel regarding the
16 fairness and reasonableness of this Settlement.

17 45. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement
18 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent
19 with applicable precedents so as to define all provisions of this Settlement Agreement valid and
20 enforceable.

21 46. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
22 certification for purposes of this Settlement only; except, however, that either Party may appeal any Court
23 order that materially alters the Settlement Agreement's terms.

24 47. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
25 class certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved,
26 the stipulation to certification will be void. The Parties further agree that certification for purposes of the
27 Settlement is not an admission that class action certification is proper under the standards applied to
28 contested certification motions and that this Settlement Agreement will not be admissible in this or any

1 other proceeding as evidence that either: (a) a class action should be certified or (b) Defendants are liable to
2 Plaintiff or any Class Member, other than according to the Settlement's terms.

3 48. Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve
4 the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation.
5 In entering into this Settlement Agreement, Defendants do not admit, and specifically deny, they have
6 violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any
7 statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or
8 breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful
9 conduct with respect to the Class Members. Neither this Settlement Agreement, nor any of its terms or
10 provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession
11 by Defendants of any such violations or failures to comply with any applicable law. Except as necessary in
12 a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its terms
13 and provisions shall not be offered or received as evidence in any action or proceeding to establish any
14 liability or admission on the part of Defendants or to establish the existence of any condition constituting a
15 violation of, or a non-compliance with, federal, state, local or other applicable law. If Final Approval does
16 not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California
17 Evidence Code Section 1152.

18 49. Captions. The captions and section numbers in this Settlement Agreement are inserted for
19 the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
20 provisions of this Settlement Agreement.

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

24 51. Enforcement Action. If one or more of the Parties institutes any legal action or other
25 proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights
26 and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the
27 unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in
28 connection with any enforcement actions. As a condition precedent to application of this provision, a party

1 that intends to institute a legal action must provide the other party or parties with written notice of that
2 intention and 60 calendar days to cure the alleged defect prior to filing the legal action.

3 52. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
4 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
5 more strictly against one Party than another merely by virtue of the fact that it may have been prepared by
6 counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between
7 the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

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

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

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

18 56. Confidentiality. Neither Plaintiff nor Plaintiff's Counsel shall issue any press release or
19 announcement of any kind related in any way to the Settlement. Plaintiff and Plaintiff's Counsel agree that,
20 prior to Preliminary Approval of the Settlement, they will keep the terms of this Settlement confidential
21 except for purposes of communicating with Plaintiff only. Plaintiff shall be informed that the Settlement is
22 confidential and shall be advised to keep the Settlement confidential. From and after Preliminary Approval
23 of the Settlement, the Class Members (including Plaintiff and Class Counsel) may: (1) as required by law;
24 (2) as required under the terms of the Settlement; or (3) as required under counsel's duties and
25 responsibilities as Class Counsel, comment regarding the specific terms of the Settlement. In all other
26 cases, Plaintiff and Class Counsel agree to limit their statements regarding the terms of the Settlement,
27 whether oral, written or electronic (including the world wide web), to say the Class Action has been
28 resolved and that Plaintiff and Class Counsel are satisfied with the Settlement terms. Nothing in this

1 Section is intended to interfere with Class Counsel's duties and obligations to faithfully discharge their
2 duties as Class Counsel, including but not limited to, communicating with Class Members regarding the
3 Settlement. This Settlement shall not be advertised or mentioned on any source, including Plaintiff's
4 Counsels' personal or firm website, except in the following manner: (1) Plaintiff's Counsel may reference
5 the Class Action and publicly-filed documents in the Class Action as part of any motion seeking
6 designation as class counsel in any future litigation by Plaintiff's Counsel; (2) Plaintiff's Counsel may
7 reference the Class Action and publicly-filed documents in the Class Action as part of any motion seeking
8 fees and costs in any future litigation by Plaintiff's Counsel; and (3) Plaintiff's Counsel may state only in
9 any of Plaintiff's Counsel marketing and on their website that they secured a "\$750,000 class action
10 settlement on behalf of entertainment industry workers" (i.e., Plaintiff's Counsel shall not refer in
11 advertising to any of the parties (Plaintiff or Defendants) in this matter, to the geographic location where
12 this lawsuit occurred, to the court where the Class Action was filed, to any publicly-filed or other
13 documents relating to the Class Action, or to any other identifying details of the Class Action or
14 Settlement).

15 57. Binding Agreement. The Parties warrant that they understand and have full authority to enter
16 into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on all Parties,
17 and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms,
18 notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state
19 law. Plaintiff, and not his respective representative(s), must personally execute this Settlement Agreement

20 *The Settlement Agreement consists of 34 pages, inclusive of signature pages.*

21 **PLAINTIFF MICKAEL M. GARCIA**


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Mickael M. Garcia

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**DEFENDANT SHE BALL PRODUCTIONS,
LLC**

Dated: _____


 _____

Nicholas S Cannon

Please Print Name of Authorized Signatory

**DEFENDANT NCREDIBLE PRODUCTIONS,
INC. a.k.a. NCREDIBLE ENTERTAINMENT**

Dated: _____

 _____

Nicholas S Cannon

Please Print Name of Authorized Signatory


**DEFENDANT WORLDWIDE ONE MEDIA,
LLC dba ONE MEDIA WORLDWIDE**

Dated: _____

Please Print Name of Authorized Signatory

DEFENDANT NICK CANNON

Dated: _____

 _____

Nick Cannon

DEFENDANT DEMETRIUS V. SPENCER

Dated: _____

Demetrius V. Spencer

**DEFENDANT SHE BALL PRODUCTIONS,
LLC**

Dated: _____

Please Print Name of Authorized Signatory

**DEFENDANT NCREDIBLE PRODUCTIONS,
INC. a.k.a. NCREDIBLE ENTERTAINMENT**

Dated: _____

Please Print Name of Authorized Signatory

**DEFENDANT WORLDWIDE ONE MEDIA,
LLC dba ONE MEDIA WORLDWIDE**

Dated: _____

DocuSigned by:

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Demetrius V. Spencer

Please Print Name of Authorized Signatory

DEFENDANT NICK CANNON

Dated: _____

Nick Cannon

DEFENDANT DEMETRIUS V. SPENCER

Dated: _____

DocuSigned by:

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Demetrius V. Spencer

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DEFENDANT BENJAMIN F. SUMPTER III

Dated: _____

Benjamin F. Sumpter III

DEFENDANT MICHAEL GOLDMAN

Dated: _____

DocuSigned by:
Michael Goldman _____
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MICHAEL GOLDMAN

DEFENDANT ROBERT KEETCH

Dated: _____

Robert Keetch

DEFENDANT ROGER UBINA

Dated: _____

Roger Ubina

**DEFENDANT GINA SCHEERER a.k.a. GINA
MACDONALD**

Dated: _____

Gina Scheerer a.k.a. Gina MacDonald

APPROVED AS TO FORM

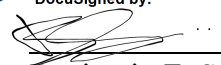
GILBERT & SACKMAN

Dated: _____

JOSHUA F. YOUNG
JOSHUA ADAMS
BENJAMIN M. O'DONNELL
Attorneys for Plaintiff
MICKAEL M. GARCIA

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DEFENDANT BENJAMIN F. SUMPTER III

DocuSigned by:

Benjamin F. Sumpter III

DEFENDANT MICHAEL GOLDMAN

Dated: _____
Michael Goldman

DEFENDANT ROBERT KEETCH

Dated: _____
Robert Keetch

DEFENDANT ROGER UBINA

Dated: _____
Roger Ubina

**DEFENDANT GINA SCHEERER a.k.a. GINA
MACDONALD**

Dated: _____
Gina Scheerer a.k.a. Gina MacDonald

APPROVED AS TO FORM

GILBERT & SACKMAN

Dated: _____
JOSHUA F. YOUNG
JOSHUA ADAMS
BENJAMIN M. O'DONNELL
Attorneys for Plaintiff
MICKAEL M. GARCIA

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DEFENDANT BENJAMIN F. SUMPTER III

Dated: _____

Benjamin F. Sumpter III

DEFENDANT MICHAEL GOLDMAN

Dated: _____

Michael Goldman

DEFENDANT ROBERT KEETCH

Dated: _____

Robert Keetch

DEFENDANT ROGER UBINA

Dated: _____

Roger Ubina

**DEFENDANT GINA SCHEERER a.k.a. GINA
MACDONALD**

Dated: 12/15/2022

DocuSigned by:

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Gina Scheerer a.k.a. Gina MacDonald

APPROVED AS TO FORM

GILBERT & SACKMAN

Dated: _____

JOSHUA F. YOUNG
JOSHUA ADAMS
BENJAMIN M. O'DONNELL
Attorneys for Plaintiff
MICKAEL M. GARCIA

DEFENDANT BENJAMIN F. SUMPTER III

Dated: _____

Benjamin F. Sumpter III

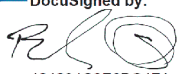
DEFENDANT MICHAEL GOLDMAN

Dated: _____

Michael Goldman

DEFENDANT ROBERT KEETCH

Dated: _____

DocuSigned by:

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DEFENDANT ROGER UBINA

Dated: _____

Roger Ubina

**DEFENDANT GINA SCHEERER a.k.a. GINA
MACDONALD**

Dated: _____

Gina Scheerer a.k.a. Gina MacDonald

APPROVED AS TO FORM

GILBERT & SACKMAN

Dated: _____

JOSHUA F. YOUNG
JOSHUA ADAMS
BENJAMIN M. O'DONNELL
Attorneys for Plaintiff
MICKAEL M. GARCIA

DEFENDANT BENJAMIN F. SUMPTER III

Dated: _____

Benjamin F. Sumpter III

DEFENDANT MICHAEL GOLDMAN

Dated: _____

Michael Goldman

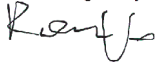
DEFENDANT ROBERT KEETCH

Dated: _____

Robert Keetch

DEFENDANT ROGER UBINA

Dated: _____

DocuSigned by:

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**DEFENDANT GINA SCHEERER a.k.a. GINA
MACDONALD**

Dated: _____

Gina Scheerer a.k.a. Gina MacDonald

APPROVED AS TO FORM

GILBERT & SACKMAN

Dated: _____

JOSHUA F. YOUNG
JOSHUA ADAMS
BENJAMIN M. O'DONNELL
Attorneys for Plaintiff
MICKAEL M. GARCIA

**SHEPPARD, MULLIN, RICHTER & HAMPTON
LLP**



Dated: December 21, 2022

RICHARD J. SIMMONS
JASON W. KEARNAGHAN
MELISSA M. SMITH
Attorneys for Defendants
SHE BALL PRODUCTIONS, LLC;
NCREDIBLE PRODUCTIONS, INC. a.k.a.
NCREDIBLE ENTERTAINMENT;
WORLDWIDE ONE MEDIA, LLC dba ONE
MEDIA WORLDWIDE; NICK CANNON;
DEMETRIUS V. SPENCER; BENJAMIN F.
SUMPTER III; MICHAEL GOLDMAN;
ROBERT KEETCH; ROGER UBINA; GINA
SCHEERER a.k.a. GINA MACDONALD

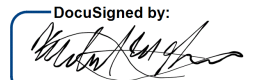
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The Settlement Agreement consists of 34 pages, inclusive of signature pages.

PLAINTIFF MICKAEL M. GARCIA

Dated: 12/21/2022

DocuSigned by:

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 Mickael M. Garcia

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DEFENDANT BENJAMIN F. SUMPTER III

Dated: _____

Benjamin F. Sumpter III

DEFENDANT MICHAEL GOLDMAN

Dated: _____

Michael Goldman

DEFENDANT ROBERT KEETCH

Dated: _____

Robert Keetch

DEFENDANT ROGER UBINA

Dated: _____

Roger Ubina

**DEFENDANT GINA SCHEERER a.k.a. GINA
MACDONALD**


Dated: _____

Gina Scheerer a.k.a. Gina MacDonald

APPROVED AS TO FORM

GILBERT & SACKMAN

Dated: December 21, 2022 _____


JOSHUA F. YOUNG
JOSHUA ADAMS
BENJAMIN M. O'DONNELL
Attorneys for Plaintiff
MICKAEL M. GARCIA