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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

AMANDA FRLEKIN, AARON GREGOROFF,  
SETH DOWLING, DEBRA SPEICHER; AND  
TAYLOR KALIN, on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 13cv03451-WHA (lead)  
Case No. 13cv04727-WHA (consolidated)

**[PROPOSED] ORDER GRANTING  
FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT  
AGREEMENT ECF NO. 416-2), AS  
AMENDED (ECF NO. \_\_\_\_\_)**

1 Plaintiffs Seth Dowling, Aaron Gregoroff, Taylor Kalin, and Debra Speicher, on behalf of  
 2 themselves and each of the Settlement Class Members, and Plaintiffs Amanda Frlekin and Taylor  
 3 Kalin on behalf of themselves, the State of California, and the PAGA Settlement Class Members,  
 4 have filed a motion for final approval of the Parties' Stipulation Regarding Class and Private  
 5 Attorneys General Act Settlement and Release<sup>1</sup> in the above-referenced consolidated action.  
 6 Plaintiffs' motion for final approval came on regularly for hearing on July 7, 2022, in Courtroom  
 7 12 on the 19th Floor of the United States Courthouse located at 450 Golden Gate Avenue, San  
 8 Francisco, California 94102, before the Honorable William Alsup.

9 Plaintiffs and the Settlement Class Members were represented by their counsel, McLaughlin  
 10 & Stern, LLP and Kralowec Law, P.C. Defendant Apple Inc. ("Defendant") was represented by its  
 11 counsel, DLA Piper LLP (US).

12 The Court has: (1) reviewed and considered the terms and conditions of the proposed  
 13 Settlement; (2) reviewed and considered the results of the Notices of Settlement mailed and emailed  
 14 to Settlement Class Members in accordance with the Court's Order Granting Preliminary Approval  
 15 of Class and Private Attorneys General Act Settlement and Notice Procedures entered on December  
 16 28, 2021 (the "Preliminary Approval Order"); (3) reviewed and considered the motions for  
 17 Attorneys' Fees, Litigation Costs, Class Representative Payments, and Service Payment and held a  
 18 hearing on those motions; (4) held a Final Approval Hearing; (5) taken into account the presentations  
 19 and other proceedings at the Final Approval Hearing; and (6) considered the Settlement in the  
 20 context of all prior proceedings had in this Action.

21 Based thereon, the Court enters the following **FINDINGS** and **CONCLUSIONS**:

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23  
 24 <sup>1</sup> After the Court preliminarily approved the Parties' Settlement, the Parties entered into an  
 25 Amendment to Stipulation Regarding Class and private Attorneys General Act Settlement and Release dated  
 26 June 1, 2022 ("Amendment"), pursuant to which Apple agreed to pay an additional \$569,959.60 account for  
 27 an additional 203,557 shifts worked by Participating Settlement Class Members that were not included in  
 28 Apple's prior calculation of the number of shifts worked by such individuals. Additionally, Apple agreed to  
 increase the PAGA Settlement Amount by \$8,549.39 from \$448,500 to \$457,049.39. The Total Settlement  
 Amount was therefore increased by \$578,508.99 from \$29,900,000 to \$30,478,508.99. All references to  
 "Settlement" or "Settlement Agreement" used herein are to the Settlement as amended pursuant to the  
 Amendment.

1           A.       Capitalized terms used in this Order that are not otherwise defined herein shall have  
2 the meaning assigned to them in the Settlement Agreement.

3           B.       The Court has subject-matter jurisdiction over the Action and all acts within the  
4 Action, and over all the Parties to the Action, including Plaintiffs, Defendant, the State of California,  
5 Settlement Class Members, and PAGA Settlement Class Members.

6           C.       In the Preliminary Approval Order, the Court conditionally modified the certified  
7 class definition to include the New Class Members for a revised class definition comprising the  
8 “Settlement Class Members.” In response to the Notices of Settlement, 5 New Class Members  
9 requested exclusion from the Settlement. Accordingly, the Court’s order preliminarily approving  
10 modification of the class definition to include all New Class Members (except for the 5 New Class  
11 Members who opted out of the Settlement) is now finally certified for settlement purposes. Class  
12 Counsel and the appointed Class Representatives have fairly and adequately represented all  
13 Settlement Class Members for purposes of negotiating and seeking approval of the Settlement.

14           D.       Pursuant to the Preliminary Approval Order and according to the Declaration of  
15 Steve Platt dated June 15, 2022, the appointed Settlement Administrator, Angeion Group, mailed  
16 by First Class U.S. Mail a Notice of Settlement for Existing Class Members who are PAGA Class  
17 Members who worked shifts during the Class Period (Dkt. 444-1, Ex. A); a Notice of Settlement for  
18 Existing Class Members who are PAGA Class Members who worked no shifts during the Class  
19 Period<sup>2</sup> (Dkt. 444-1, Ex. B); a Notice of Settlement for Existing Class Members who are not PAGA  
20 Settlement Class Members and who worked shifts during the Class Period (Dkt. 444-1, Ex. C); a  
21 Notice of Settlement for Existing Class Members who are not PAGA Class Members and who  
22 worked no shifts during the Class Period (Dkt. 444-1, Ex. D); a Notice of Settlement for New Class  
23 Members who worked shifts during the Class Period (Dkt. 444-1, Ex. E); and a Notice of Settlement  
24 for New Class Members who worked no shifts during the class period (Dkt. 444-1, Ex. F). The  
25 Settlement Administrator also emailed the Notice of Settlement in the form attached to the  
26 \_\_\_\_\_

27           <sup>2</sup>       Some Settlement Class Members were employed by Apple during the Class Period, but worked no  
28 shifts during that Period because, for example, they were on vacation or on leave.

1 Settlement Agreement as Exhibit A to Existing Class Members and the Notice of Settlement in the  
2 form attached to the Settlement Agreement as Exhibit B to New Class Members, at the email address  
3 for such individuals, if any, included in the Employee List.

4 The Notices of Settlement fairly and adequately advised Settlement Class Members of the  
5 terms of the proposed Settlement, of the preliminary approval of the proposed Settlement, of their  
6 right to receive their shares of the Total Settlement Amount, of the scope and effect of the Released  
7 Class Claims, of Settlement Class Members' rights relating to objecting to the Settlement, of New  
8 Class Members' rights relating to opting out of the Settlement, of the date of the Final Approval  
9 Hearing, and of Settlement Class Members' right to appear at the Final Approval Hearing.  
10 Settlement Class Members had adequate time to consider this information and to use the procedures  
11 identified in the Notices of Settlement. The Court finds and determines that this notice procedure  
12 afforded adequate protections to Settlement Class Members and provides the basis for the Court to  
13 make an informed decision regarding approval of the Settlement based on the responses of  
14 Settlement Class Members. The Court finds and determines that the Notices of Settlement provided  
15 to Settlement Class Members was the best notice practicable, which satisfied the requirements of  
16 law and due process.

17 E. The Court finds that Plaintiffs' notices of the proposed Settlement, and the  
18 Amendment to the Settlement, submitted to the California Labor and Workforce Development  
19 Agency ("LWDA") were sufficient and valid pursuant to California Labor Code section 2699(*l*).  
20 The LWDA has not filed any document related to this Action with the Court.

21 F. The Court finds that Defendant's notice of the proposed Settlement submitted to the  
22 Attorney General of the United States and the appropriate State officials fully and adequately  
23 complied with the notice requirements set forth in the Class Action Fairness Act of 2005, 28 U.S.C.  
24 § 1715. Neither the Attorney General of the United States nor any State official filed any document  
25 related to this action with the Court. The Court concludes that Apple is not required to provide  
26 notice of the Amendment to the Settlement Agreement to the relevant Attorneys General because  
27 no Attorney General objected to the original settlement and the Amendment merely adds benefits  
28

1 for the Settlement Class Members. *See, e.g., Smith v. Levine Leichtman*, 2014 U.S. Dist. LEXIS  
 2 198138 (N.D. Cal. Mar. 26, 2014) (holding that an updated notice was not required because the  
 3 amendments benefitted the class and the no Attorney General objected to the originally proposed  
 4 settlement); *Demmings v. KKW Trucking, Inc.*, 2018 U.S. Dist. LEXIS 159749 (D. Or. Sep. 19,  
 5 2018) (same).

6 F. In response to the Notices of Settlement, no Settlement Class Members objected to  
 7 the Settlement and only 5 New Class Members requested exclusion from the Settlement.

8 G. The Settlement is in all respects fair, reasonable, adequate, and proper, and in the  
 9 best interests of the Settlement Class Members. In reaching this conclusion, the Court considered a  
 10 number of factors, including: (1) the strength of Plaintiffs' claims; (2) the risk, expense, complexity,  
 11 and likely duration of further litigation; (3) the amount offered in settlement; (4) the extent of  
 12 discovery completed and the stage of the proceedings; (5) the experience and views of Class Counsel  
 13 and Defense Counsel; and (6) the reaction of the Settlement Class Members to the proposed  
 14 Settlement. The Court finds that the Settlement offers significant monetary recovery to all  
 15 Participating Settlement Class Members, and finds that such recovery is fair, reasonable, and  
 16 adequate when balanced against the risk of further litigation related to damages issues. The Court  
 17 further finds that counsel for the Parties engaged in extensive investigation, research, and discovery  
 18 such that Class Counsel and Defense Counsel were able to reasonably evaluate their respective  
 19 positions at the time of settlement. The Court finds that the Settlement will avoid substantial  
 20 additional costs by all Parties, as well as avoid the risks and delay inherent to further prosecution of  
 21 the Action. The Court further finds that the Settlement has been reached as the result of serious and  
 22 non-collusive arms-length negotiations. The Court further finds that the relief provided for under  
 23 PAGA is genuine, meaningful, and consistent with PAGA's underlying purpose of benefitting the  
 24 public. Thus, the Court finally approves the Settlement set forth in the Settlement Agreement and  
 25 finds that the Settlement is, in all respects, fair, reasonable, and adequate. Accordingly, the Court  
 26 directs the Parties to effectuate the Settlement according to its terms.

27 H. Participating Settlement Class Members (as certified below) shall be subject to all of  
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1 the provisions of the Settlement, the Settlement Agreement, and this Final Approval Order and the  
 2 Judgment to be entered by the Clerk of the Court, as set forth herein, including with respect to the  
 3 Released Class Claims.

4 On the basis of the foregoing findings and conclusions, as well as the submissions and  
 5 proceedings referred to above, **NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED,**  
 6 and **DECREED:**

7 1. Plaintiffs' motion for final approval of the Settlement is **GRANTED**. The Settlement  
 8 is hereby approved as fair, reasonable, adequate, and in the best interests of the Settlement Class  
 9 Members, and the requirements of due process and Federal Rule of Civil Procedure 23 have been  
 10 satisfied. The Parties are ordered and directed to effectuate the Settlement according to its terms.

11 2. The Court, having found that each of the elements of Rule 23 are satisfied, certifies  
 12 the following Class regarding the Class Claims: All current and former non-exempt employees of  
 13 Defendant who worked at an Apple retail store in California between July 25, 2009 and August 10,  
 14 2015 who were previously provided notice of the Action in 2015 and who did not opt out of the  
 15 class (*i.e.*, Existing Class Members), and all individuals who began working as a non-exempt  
 16 employee at an Apple retail store in California between August 3, 2015 and December 26, 2015 and  
 17 to whom a notice of class certification was not mailed in 2015 (*i.e.*, New Class Members).

18 3. Plaintiffs' motion for approval of Settlement Administration Costs is **GRANTED**.  
 19 For purposes of this Final Approval Order and this Settlement, the Court hereby confirms the  
 20 appointment of Angeion Group as the Settlement Administrator to administer the Settlement as more  
 21 specifically set forth in the Settlement Agreement, and further finally approves Settlement  
 22 Administration Costs, as fair and reasonable, of \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

23 4. For purposes of this Final Approval Order and this Settlement, the Court hereby  
 24 confirms the appointment of Plaintiffs Seth Dowling, Aaron Gregoroff, Taylor Kalin, and Debra  
 25 Speicher (all of whom were previously appointed as Class Representatives for the Existing Class  
 26 Members) as the Class Representatives for the Settlement Class Members. Further, Plaintiffs'  
 27 motion for approval of Class Representatives Payments is **GRANTED**. The Court finally approves  
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1 the Class Representative Payments, as fair and reasonable, to Plaintiffs Seth Dowling, Aaron  
 2 Gregoroff, Taylor Kalin, and Debra Speicher in the amount of \_\_\_\_\_ Dollars  
 3 (\$\_\_\_\_\_) each, for the reasons stated in the Court's order granting motions for Attorneys' Fees,  
 4 Litigation Costs, Class Representative Payments, and Service Payment, issued herewith. The Court  
 5 hereby orders the Settlement Administrator to distribute the Class Representative Payments to the  
 6 Class Representatives in accordance with this Order and the provisions of the Settlement.

7 5. Plaintiffs' motion for approval of the Service Payment is **GRANTED**. For purposes  
 8 of this Final Approval Order and this Settlement, the Court finally approves the Service Payment,  
 9 as fair and reasonable, to Plaintiff Amanda Frlekin in the amount of \_\_\_\_\_ Dollars  
 10 (\$\_\_\_\_\_), for the reasons stated in the Court's order granting motions for Attorneys' Fees,  
 11 Litigation Costs, Class Representative Payments, and Service Payment, issued herewith. The Court  
 12 hereby orders the Settlement Administrator to distribute the Service Payment to Plaintiff Amanda  
 13 Frlekin in accordance with this Order and the provisions of the Settlement.

14 6. For purposes of this Final Approval Order and this Settlement, the Court hereby  
 15 extends the appointment of Class Counsel McLaughlin & Stern, LLP and Kralowec Law P.C. (with  
 16 Lee Shalov of McLaughlin & Stern, LLP as Lead Counsel) to also represent the New Class  
 17 Members, such that Class Counsel represents all Settlement Class Members for purposes of the  
 18 Settlement. Further, Plaintiffs' motion for approval of Attorneys' Fees is **GRANTED**. The Court  
 19 finally approves the payment of Attorneys' Fees in the amount of \_\_\_\_\_ Dollars  
 20 (\$\_\_\_\_\_) as fair and reasonable, for the reasons stated in the Court's order granting motions for  
 21 Attorneys' Fees, Litigation Costs, Class Representative Payments, and Service Payment, issued  
 22 herewith. The Attorneys' Fees shall fully satisfy all legal fees for all attorneys representing Plaintiffs  
 23 in the Action (including McLaughlin & Stern LLP; Kralowec Law, P.C.; the Law Office of Louis  
 24 Ginsberg, P.C.; the Blanchard Law Group, APC; Peter R. Dion-Kindem, P.C., and the Holmes Law  
 25 Group, APC). The issue of allocation of the Attorneys' Fees award is addressed in the Court's order  
 26 granting motions for Attorneys' Fees, Litigation Costs, Class Representative Payments, and Service  
 27 Payment, issued herewith. The Court's allocation of the Attorneys' Fees among the law firms that  
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1 have represented Plaintiffs in the Action shall not affect the total amount of Attorneys' Fees awarded  
 2 in this case or require Defendant to pay more for Attorneys' Fees. No other attorneys or law firms  
 3 shall be entitled to any award of attorneys' fees from Defendant in any way connected with the  
 4 Action. The Court hereby orders the Settlement Administrator to distribute the Attorneys' Fees in  
 5 accordance with the provisions of this Order, the Court's order granting motions for Attorneys'  
 6 Fees, Litigation Costs, Class Representative Payments, and Service Payment, and the Settlement  
 7 Agreement.

8         7. Plaintiffs' motion for approval of Litigation Costs is **GRANTED**. For purposes of  
 9 this Final Approval Order and this Settlement, the Court finally approves the payment of Litigation  
 10 Costs in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) as fair and reasonable, for the reasons  
 11 stated in the Court's order granting motions for Attorneys' Fees, Litigation Costs, Class  
 12 Representative Payments, and Service Payment, issued herewith. The Litigation Costs shall fully  
 13 satisfy all litigation costs incurred by the attorneys representing Plaintiffs in the Action (including  
 14 McLaughlin & Stern LLP; Kralowec Law, P.C.; the Law Office of Louis Ginsberg, P.C.; the  
 15 Blanchard Law Group, APC; Peter R. Dion-Kindem, P.C., and the Holmes Law Group, APC). The  
 16 issue of allocation of the Litigation Costs award is addressed in the Court's order granting motions  
 17 for Attorneys' Fees, Litigation Costs, Class Representative Payments, and Service Payment, issued  
 18 herewith. The Court's allocation of the Litigation Costs among the law firms that have represented  
 19 Plaintiffs in the Action shall not affect the total amount of Litigation Costs awarded in this case or  
 20 otherwise require Defendant to pay more for Litigation Costs. No other attorneys or law firms shall  
 21 be entitled to any award of costs from Defendant in any way connected with the Action. The Court  
 22 hereby orders the Settlement Administrator to distribute the Litigation Costs in accordance with the  
 23 provisions of this Order, the Court's order granting motions for Attorneys' Fees, Litigation Costs,  
 24 Class Representative Payments, and Service Payment, and the Settlement Agreement.

25         8. For purposes of this Final Approval Order and this Settlement, the Court hereby  
 26 approves the PAGA Settlement Amount in the amount of Four Hundred Fifty-Seven Thousand  
 27 Forty-Nine Dollars and Thirty-Nine Cents (\$457,049.39) as fair and reasonable. Pursuant to the  
 28



1 terms of the Settlement Agreement, seventy-five percent (75%) of the PAGA Settlement Amount  
 2 (*i.e.*, \$342,787.04) shall be distributed to the LWDA and twenty-five percent (25%) of the PAGA  
 3 Settlement Amount (*i.e.*, \$114,262.35) shall be distributed to the PAGA Settlement Class Members.  
 4 Payment of the PAGA Settlement Amount shall resolve all claims for civil penalties under PAGA  
 5 for the PAGA Claims alleged in the Action. The Court hereby orders the Settlement Administrator  
 6 to distribute the PAGA LWDA Payment to the LWDA and to distribute the PAGA Settlement Class  
 7 Member Payments to the PAGA Settlement Class Members in accordance with the provisions of  
 8 this Order and the Settlement Agreement.

9       9. For purposes of this Final Approval Order and this Settlement, the Court hereby  
 10 approves the Individual Class Payments in the aggregate amount of \_\_\_\_\_ Dollars  
 11 (\$\_\_\_\_\_) as fair, reasonable, and adequate. The Court hereby orders the Settlement Administrator  
 12 to distribute the Individual Class Payments to Participating Settlement Class Members in accordance  
 13 with the provisions of this Order and the Settlement Agreement.

14       10. Any checks issued to Participating Settlement Class Members or PAGA Settlement  
 15 Class Members shall remain valid and negotiable for one hundred and eighty (180) calendar days  
 16 from the date of their issuance and then shall become void on the 181st day after mailing, *i.e.*, the  
 17 Void Date. Any re-mailed or re-issued check shall remain valid and negotiable for one hundred  
 18 eighty (180) calendar days from the date the original check was mailed, or thirty (30) calendar days  
 19 from the date the re-issued check is re-mailed, whichever date is later. Any unclaimed funds  
 20 resulting from Settlement Class Members' failure to cash Individual Class Payment checks and/or  
 21 Individual PAGA Payment checks by the Void Date shall be transmitted by the Settlement  
 22 Administrator to the California Alliance of Boys & Girls Clubs, Inc. ("Boys & Girls Clubs"), with  
 23 the funds designated to be used in California for the Boys & Girls Clubs' Workforce Readiness  
 24 program/job training, within fourteen (14) calendar days of the Void Date. The Court approves the  
 25 Boys & Girls Clubs as an appropriate recipient of these funds. Any refunded employee-side payroll  
 26 taxes corresponding to the wage component of any uncashed Individual Class Payment checks shall  
 27 be transmitted by the Settlement Administrator to the Boys & Girls Clubs with the funds designated

1 to be used in California for Boys & Girls Clubs' Workforce Readiness program/job training, within  
2 fourteen (14) calendar days of the Settlement Administrator's receipt of the refunded employee-side  
3 payroll taxes. Any refunded employer-side payroll taxes corresponding to the wage component of  
4 any uncashed Individual Class Payment checks shall be returned to Apple within fourteen (14)  
5 calendar days of the Settlement Administrator's receipt of the refunded employer-side payroll taxes.

6 11. As of the Effective Date, Plaintiffs Seth Dowling, Aaron Gregoroff, Amanda Frlekin,  
7 Taylor Kalin, and Debra Speicher shall be deemed to have provided a Complete and General Release  
8 to the Released Parties.

9 12. As of the Effective Date, Plaintiffs Amanda Frlekin and Taylor Kalin – on behalf of  
10 themselves, the State of California, and PAGA Settlement Class Members – shall be deemed to have  
11 fully and irrevocably released the Released Parties from the PAGA Claims, as defined in the  
12 Settlement Agreement. Plaintiffs Amanda Frlekin and Taylor Kalin, the State of California, and  
13 PAGA Settlement Class Members will release such Released PAGA Claims for the PAGA Period,  
14 *i.e.*, from July 25, 2012 through and including December 31, 2015. Plaintiffs Amanda Frlekin and  
15 Taylor Kalin, the State of California, and PAGA Settlement Class Members may discover facts in  
16 addition to or different from those they now know or believe to be true with respect to the subject  
17 matter of the Released PAGA Claims, but upon the Effective Date, they shall be deemed to have –  
18 and by operation of this Final Approval Order and the Judgment that will be entered concurrently  
19 herewith, they shall have – fully, finally, and forever settled and released any and all of the Released  
20 PAGA Claims. On behalf of the State of California and all PAGA Settlement Class Members,  
21 Plaintiffs Amanda Frlekin and Taylor Kalin agree that, as of the Effective Date, Plaintiffs Amanda  
22 Frlekin and Taylor Kalin, the State of California, and all PAGA Settlement Class Members are  
23 hereby forever barred and enjoined from prosecuting the Released PAGA Claims against the  
24 Released Parties. Nothing in this paragraph is intended to create a basis for imposing monetary  
25 sanctions against Settlement Class Members, but rather is intended to confirm the finality of the  
26 releases provided in the Settlement.

13. As of the Effective Date, Class Representatives and each of the Participating Settlement Class Members shall be deemed to have fully and irrevocably released the Released Parties from the Class Claims, as defined in the Settlement Agreement. Participating Settlement Class Members will release such Released Class Claims for the Class Period, *i.e.*, from July 25, 2009 through and including December 31, 2015. Class Representatives and Participating Settlement Class Members may discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released Class Claims, but upon the Effective Date, they shall be deemed to have – and by operation of this Final Approval Order and the Judgment that will be entered concurrently herewith, they shall have – fully, finally, and forever settled and released any and all of the Released Class Claims. On behalf of all Participating Settlement Class Members, Class Representatives agree that, as of the Effective Date, Class Representatives and all Participating Settlement Class Members are hereby forever barred and enjoined from prosecuting the Released Class Claims against the Released Parties. Nothing in this paragraph is intended to create a basis for imposing monetary sanctions against Settlement Class Members, but rather is intended to confirm the finality of the releases provided in the Settlement.

14. The terms of the Settlement Agreement, and this Final Approval Order and the Judgment that will be entered concurrently herewith, are binding on Plaintiffs, the State of California, Participating Settlement Class Members, and the PAGA Settlement Class Members, and those terms shall have, to the fullest extent permitted by law, *res judicata* and other preclusive effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf of the State of California, Participating Settlement Class Members and PAGA Settlement Class Members, to the extent those claims, lawsuits or other proceedings fall within the scope of Released Class Claims and/or Released PAGA Claims as set forth in the Settlement Agreement.

15. Neither this Final Approval Order, the Judgment, the Settlement Agreement, nor any document referred to herein, nor any action taken to carry out the Settlement Agreement is, may be construed as, or may be used as an admission by or against Defendant or any of the other Released Parties of any fault, wrongdoing, or liability whatsoever. Nor is this Final Approval Order or the

Judgment a finding of the validity of any of the Class Claims or PAGA Claims in the Action or of any wrongdoing by Defendant or any of the other Released Parties. The entering into or carrying out of the Settlement Agreement, and any negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses by Defendant or any of the other Released Parties and shall not be offered in evidence against Defendant or any of the Released Parties in any action or proceeding in any court, administrative agency or other tribunal for any purpose whatsoever other than to enforce the provisions of this Final Approval Order and the Judgment, the Settlement Agreement, or any related agreement or release. Notwithstanding these restrictions, any of the Released Parties may file in the Action or in any other proceeding this Final Approval Order, the Judgment, the Settlement Agreement, or any other papers and records on file in the Action as evidence of the Settlement and to support a defense of *res judicata*, collateral estoppel, release, waiver, or other theory of claim preclusion, issue preclusion, or similar defense.

16. In the event that the Settlement does not become final and effective in accordance with the terms of the Settlement Agreement, then this Final Approval Order, the Judgment and all orders entered in connection herewith, shall be rendered null and void and be vacated. Moreover, any funds tendered by Defendant shall be returned and/or retained by Defendant consistent with the terms of the Settlement.

17. Within twenty-one (21) calendar days after the Void Date, the Parties shall file with the Court and post to the Settlement Administrator's website a post-distribution accounting setting forth: (a) the Total Settlement Amount; (b) the total number of Settlement Class Members; (c) the total number of Settlement Class Members to whom a Notice of Settlement was sent and not returned as undeliverable; (d) the number and percentage of opt-outs; (e) the number and percentage of objections; (f) the average and median recovery per Participating Settlement Class Member; (g) the largest and smallest amounts paid to Participating Settlement Class Members; (h) the methods of notice and the method of payment to Settlement Class Members; (i) the number and value of checks not cashed; (j) the amounts distributed to the cy pres recipient; (k) the Settlement

1 Administration Costs; (l) the Attorneys' Fees and Litigation Costs; and (m) the Attorneys' Fees in  
2 terms of percentage of the settlement fund, and the multiplier, if any.

3 18. The terms of the Settlement Agreement, and this Final Approval Order, and  
4 the Judgment that will be entered concurrently herewith, are binding on the Parties.

5 19. A compliance hearing is set for \_\_\_\_\_, 2022 at \_\_\_\_\_.

6 20. Judgment will be entered separately.

7 **IT IS SO ORDERED.**

8  
9 DATED: \_\_\_\_\_, 2022

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12 Hon. William Alsup  
13 United States District Judge  
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