

MATTHEW J. MATERN (SBN 159798)
mmatern@maternlawgroup.com
JULIA Z. WELLS (SBN 314242)
jwells@maternlawgroup.com
MATERN LAW GROUP, PC
1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
Telephone: (310) 531-1900
Facsimile: (310) 531-1901

Attorneys for Plaintiff LAURA TOVAR
individually, and on behalf of others similarly
situated

[Additional Counsel on following page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

LAURA TOVAR, individually, and on behalf
of others similarly situated

Plaintiff,

vs.

WESTERN UNIVERSITY OF HEALTH
SCIENCES, a corporation; and DOES 1
through 50, inclusive,

Defendants

CASE NO.: 19STCV23464

[Assigned for All Purposes to Honorable
Kenneth R. Freeman, Department 14]

**AMENDED CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
CLASS NOTICE**

Complaint Filed: July 8, 2019

Trial Date: None Set

Max S. Sank, Esq.
Jennifer K. Palagi, Esq.
Viddell Lee Heard, Esq.
6033 West Century Boulevard, 5th Floor
Los Angeles, California 90045
Telephone: (310) 981-2000
Facsimile: (310) 337-0837
Email: msank@lcwlegal.com
jpalagi@lcwlegal.com
lheard@lcwlegal.com

Attorneys for Defendant WESTERN
UNIVERSITY OF HEALTH SCIENCES

**AMENDED CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND CLASS NOTICE**

This Amended Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Laura Tovar, individually and on behalf of the Settlement Class (as defined below) and the State of California (“Plaintiff”), and defendant Western University of Health Sciences (“Defendant” or “WesternU”), by and through their respective counsel of record. The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against WesternU captioned *Laura Tovar v. Western University Health Sciences* (Case No. 19STCV23464) initiated on July 8, 2019 and pending in the Superior Court of the State of California, County of Los Angeles.

1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. “Aggrieved Employee” means a person employed by WesternU in California and classified as non-exempt who worked for WesternU during the PAGA Period.

1.5. “Class” means all persons employed by WesternU in California and classified as non-exempt who worked for WesternU during the Class Period.

1.6. “Class Counsel” means Matern Law Group, PC, including Matthew J. Matern and Julia Z. Wells.

1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.8. “Class Data” means Class Member identifying information in WesternU’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from July 8, 2015 to June 21, 2022.

1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Los Angeles.

1.16. “WesternU” means named Defendant Western University of Health Sciences.

1.17. “Defense Counsel” means Liebert Cassidy Whitmore.

1.18. “Effective Date” means the date by when both of the following have occurred:

(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.22. “Gross Settlement Amount” means Four Million Five Hundred Thousand Dollars (\$4,500,000), which is the total amount WesternU agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.

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

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

1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

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

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

1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

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

1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for WesternU for at least one day during the PAGA Period.

1.31. “PAGA Period” means the period from May 4, 2018 to June 21, 2022.

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

1.33. “PAGA Notice” means Plaintiff’s March 6, 2019 letter to WesternU and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.34. “PAGA Penalties” means the Two Hundred Fifty Thousand Dollars (\$250,000) set aside for PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees in the amount of Sixty-Two Thousand Five Hundred Dollars (\$62,500) and the 75% to LWDA in the amount of One Hundred Eighty-Seven Thousand Five Hundred Dollars (\$187,500), in settlement of PAGA claims.

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

1.36. “Plaintiff” means Laura Tovar, the named plaintiff in the Action.

1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.39. "Released Class Claims" means the claims being released as described in Paragraphs 5.2 and 5.3 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.4 below.

1.41. "Released Parties" means: Western University of Health Sciences and any present and former parent, subsidiary, affiliate, predecessor or successor, assign, and all present and former agents, trustees, employees, officers, directors, attorneys, and insurers thereof.

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement, signed by the Class Member.

1.43. "Response Deadline" means 45 calendar days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are re-sent after having been returned undeliverable to the Administrator shall have these deadlines extended by an additional 14 calendar days beyond the Response Deadline has expired.

1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.45. "Workweek" means any week during which a Class Member worked for WesternU for at least one day, during the Class Period.

2. RECITALS.

2.1. On July 8, 2019, Plaintiff commenced this Action by filing a Complaint alleging causes of action against WesternU for a) Failure to provide required meal periods and pay premium pay as required under Labor Code §§ 226.7, 510, 512, 1194, 1997 and IWC Wage Order No. 4-2001, § 11; (b) Failure to provide required rest periods and pay premium pay as required under Labor Code §§ 226.7, 512 and IWC Wage Order No. 4-2001, § 12; (c) Failure to

pay overtime wages as required under Labor Code §§ 510, 1194, 1198 and IWC Wage Order No. 4-2001, § 3; (d) Failure to pay minimum wages as required under Labor Code §§ 1194, 1197 and IWC Wage Order No. 4-2001, § 4; (e) Failure to pay compensation due on discharge from employment in violation of Labor Code §§ 201-203; (f) Failure to maintain required records as required under Labor Code § 226 and IWC Wage Order No. 4-2001, § 7; (g) Failure to furnish accurate itemized wage statements in violation of Labor Code §§ 226, 1174 and Wage Order No. 4-2001, § 7; (h) Failure to indemnify employees for necessary expenditures incurred in discharge of duties in violation of Labor Code § 2802; (i) Unfair, unlawful, and/or fraudulent business practices in violation of Business & Professions Code § 17200, et seq. (“UCL”); and (j) a representative cause of action for PAGA penalties under Labor Code §§ 2698, et seq. The July 8, 2019 Complaint is the operative complaint in the Action (the “Operative Complaint.”) WesternU denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to WesternU and the LWDA by sending the PAGA Notice.

2.3. On April 21, 2022 the Parties participated in an all-day mediation presided over by Michael Dickstein, Esq., which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff, through Class Counsel, conducted an investigation through formal discovery into the underlying facts, events, and issues related to the subject matter of this Action. Class Counsel represent that they have further undertaken an extensive analysis of the legal principles applicable to the claims asserted against Defendant, and the potential defenses thereto. Both parties have had an opportunity to evaluate their respective positions on the merits of the claims asserted. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.5. The Court has not yet granted class certification, as the Parties stipulated to continue the time for Plaintiff to file a motion for class certification pending the private mediation, which ultimately resulted in the Parties' agreement to settle this Action.

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

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, WesternU promises to pay Four Million Five Hundred Thousand Dollars (\$4,500,000) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. WesternU has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to WesternU.

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

3.2.1. To Plaintiff: A Class Representative Service Payment to the Class Representative of not more than Ten Thousand Dollars (\$10,000), which shall be paid in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member. WesternU will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion seeking approval of the Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will also seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment

less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33% of the Gross Settlement Amount, which is currently estimated to be One Million Five Hundred Thousand Dollars (\$1,500,000), and a Class Counsel Litigation Expenses Payment in an amount of not more than Seventy Thousand Dollars (\$70,000). WesternU will not oppose requests for these payments provided they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion seeking Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds WesternU harmless, and indemnifies WesternU, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$30,000 except for upon a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$30,000, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks

worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. One-third (33.33%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Two-Thirds (66.67%) of each Participating Class Member's Individual Class Payment will be allocated towards interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to the Non-Participating Class Members' Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000) to be paid from the Gross Settlement Amount, with 75%, or One Hundred Eighty-Seven Thousand Five Hundred Dollars (\$187,500), allocated to the LWDA PAGA Payment, and the remaining 25%, or Sixty-Two Thousand Five Hundred Dollars (\$62,500), allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the total amount of the Aggrieved Employees' 25% share of PAGA Penalties, (\$62,500), by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, WesternU estimates there are approximately Two Thousand Ninety-Six (2,096) Class Members who collectively worked a total of approximately One Hundred and Seventy-One Thousand (171,000) Workweeks, and approximately One Thousand Six Hundred Sixty-Six (1,666) Aggrieved Employees who worked a total of approximately Fifty-Four Thousand Three Hundred and Forty-Five (54,345) PAGA Pay Periods.

4.2. Class Data. Not later than 21 calendar days after the Court grants Preliminary Approval of the Settlement, WesternU will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. WesternU has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which WesternU must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. WesternU shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay WesternU's share of payroll taxes, by transmitting the funds to the Administrator no later than 21 calendar days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 calendar days after WesternU funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state that the check will be voided one hundred eighty (180) days after the date of mailing. The Administrator will cancel all checks not cashed by the void date. Class Members who fail to timely cash their checks and have them cancelled under this provision will be deemed to have irrevocably waived any right in or claim to any payment under the Settlement, but the Settlement and their release of Released Class Claims and Released PAGA Claims will nevertheless remain binding upon them. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom the Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 calendar days of receiving a returned check the Administrator must re-mail checks to

the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California State Controller's Unclaimed Property Fund in the name of the Class Member or Aggrieved Employee to whom the check was issued, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

5. RELEASES OF CLAIMS.

Effective on the date when WesternU fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, ascertained during the Action and released under

5.4, below. In addition, in exchange for her individual settlement award Plaintiff will release Released Parties from all claims relating to her employment with WesternU, including but not limited to, all claims pled in the Operative Complaint, with corresponding California Civil Code section 1542 waivers, including all claims arising from and relating to Plaintiff's employment for WesternU or separation thereof, including, but not limited to claims for breach of contract, breach of the covenant of good faith and fair dealing, violation of public policy, infliction of emotional distress, misrepresentation, fraud, negligent retention/supervision, assault/battery, claims under the Fair Credit Reporting Act, under Title VII of the Civil Rights Act, under the California Fair Employment and Housing Act, under the California Labor Code, California Wage Orders, under the Age Discrimination and Employment Act, the Employee Retirement Income Security Act of 1974, under the California Business and Professions Code, or under the California Constitution. ("Plaintiff's Release.")

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2 Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members who are not Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, and for the time period of the Class Period, release the Released Parties from all claims that were alleged, or reasonably could have been alleged, during the Class Period based on the facts stated in the Operative Complaint and ascertained in the course of the Action including but not limited to, Failure to Provide Required Meal Periods [Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 4-2001, §, 11]; Failure to Provide Required Rest

Periods [Labor Code §§ 226.7, 512; IWC Wage Order No. 4-2001, § 12]; Failure to Pay Overtime Wages [Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 4-2001, § 3]; Failure to Pay Minimum Wages [Labor Code §§ 1194, 1197; IWC Wage Order No. 4-2001, § 4]; Failure to Pay All Wages Due to Discharged and Quitting Employees [Labor Code §§ 201, 202, 203]; Failure to Maintain Required Records [Labor Code § 226; IWC Wage Order No. 4-2001, § 7]; Failure to Furnish Accurate Itemized Wage Statements [Labor Code §§ 226, 1174; IWC Wage Order No. 4-2001, § 7]; Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties [Labor Code § 2802]; and Unfair and Unlawful Business Practices [Bus. & Prof. Code §§ 17200 et. seq.].).

5.3 Release by Participating Class Members Who Are Aggrieved Employees: All Participating Class Members who are aggrieved employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, and for the time period of the Class Period, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action including, but not limited to, Failure to Provide Required Meal Periods [Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 4-2001, §, 11]; Failure to Provide Required Rest Periods [Labor Code §§ 226.7, 512; IWC Wage Order No. 4-2001, § 12]; Failure to Pay Overtime Wages [Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 4-2001, § 3]; Failure to Pay Minimum Wages [Labor Code §§ 1194, 1197; IWC Wage Order No. 4-2001, § 4]; Failure to Pay All Wages Due to Discharged and Quitting Employees [Labor Code §§ 201, 202, 203]; Failure to Maintain Required Records [Labor Code § 226; IWC Wage Order No. 4-2001, § 7]; Failure to Furnish Accurate Itemized Wage Statements [Labor Code §§ 226, 1174; IWC Wage Order No. 4-2001, § 7]; Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties [Labor Code § 2802]; Unfair and Unlawful Business Practices [Bus. & Prof. Code §§ 17200 et. seq.], PAGA penalties for meal break violations, rest break violations, unpaid wages, off the clock work, wage statement violations, failure to reimburse necessary expenses, failure to keep required records,

waiting time penalties and failure to pay all wages due upon termination, California Labor Code section 2698 *et seq.*, Labor Code sections 200-204, 210, 212, 218.5, 218.6, 221, 223, 225.5, 226, 226(a), 226.2, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2810.5.).

5.4 Release by Non-Participating Class Members Who Are Aggrieved Employees:

All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, for the time period of the PAGA Period, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice and ascertained in the course of the Action, (including PAGA penalties for meal break violations, rest break violations, unpaid wages, off the clock work, wage statement violations, failure to reimburse necessary expenditures, failure to keep required records, failure to issue accurate, itemized wage statements, and failure to pay all wages due upon termination, pursuant to California Labor Code section 2698 *et seq.*, Labor Code sections 200-204, 210, 212, 218.5, 218.6, 221, 223, 225.5, 226, 226(a), 226.2, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2810.5.)

6. MOTION FOR PRELIMINARY APPROVAL.

Counsel for Plaintiff will prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6.1 WesternU’s Declaration in Support of Preliminary Approval. Within 14 days of the full execution of this Agreement, WesternU will prepare and deliver to Class Counsel a signed Declaration from WesternU and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the proposed Administrator and proposed Cy Pres Recipient. In their Declarations, Defense Counsel and WesternU shall aver that they are not

aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice and memorandum in support of the Motion for Preliminary Approval that includes a request for class certification for settlement purposes only, an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement. Along with the Motion for Preliminary Approval, Plaintiff's counsel shall also submit (i) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve, competency, operative procedures for protecting the security of Class Data, amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; and any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (ii) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator and/or the proposed Cy Pres; (iii) a signed declaration from Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff's and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval; obtaining a prompt hearing date for the Motion for Preliminary Approval; and appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and conferring in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and conferring in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and have verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 Notice to Class Members.

7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods included in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the approximate dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and/or PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing the Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, WesternU or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data

and should have received Class Notice, counsel for the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include any such individuals as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement by not later than 14 calendar days after receipt of Class Notice, or by the deadline dates in the Class Notice, whichever is later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 calendar days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number, and the signature of the Class Member or his or her legal representative. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline (plus an additional 14 days for any Class Member whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member as set forth in his or her Class Notice. The Class Member may communicate their challenge to the allocation to the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation (e.g. confirming his or her dates of employment). In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct, so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and inform them of the Administrator's determination of any such challenges.

7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will use its internet website to post information of interest to Class Members, including the date, time and location for the Final Approval Hearing, and copies of the Settlement Agreement, the Preliminary Approval Order, the Class Notice, and the Final Approval Order and Judgment. The Administrator will also maintain and monitor a toll-free telephone number to receive Class Member calls.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review (on a rolling basis) any Requests for Exclusion in order to ascertain their validity. Not later than 5 calendar days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other

identifying information of Class Members who have submitted invalid Requests for Exclusion;
(c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 Weekly Reports. The Administrator shall, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, set forth the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

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

7.8.5 Administrator’s Declaration. Not later than 14 calendar days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

7.8.6 Final Report by Settlement Administrator. Within 10 calendar days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by

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

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, WesternU estimates that, as of the date of this Agreement, (1) there are approximately Two Thousand One Hundred Twenty-Six (2,126) Class Members and approximately One Hundred Seventy-Seven Thousand and Six (177,006) Total Workweeks during the Class Period, and (2) there are approximately One Thousand Six Hundred Sixty-Six (1,666) Aggrieved Employees who worked approximately Fifty-Four Thousand Three Hundred Forty-Five (54,345) Pay Periods during the PAGA Period. The Class Period and PAGA Period will end on the same date on June 21, 2022.

9. WESTERNU'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds thirty-five (35) of the total Class Members, WesternU may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if WesternU withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, WesternU will remain responsible for paying all Settlement Administration Expenses incurred to that point. If the Agreement is terminated under this section: (i) any provisional class certification for settlement only will be vacated; (ii) the Action will revert to the status that existed before the Agreement's execution date; and (iii) no term or draft of the Agreement, or any part or aspect of the Parties' settlement discussions, negotiations, or documentation will have any effect or be admissible into evidence, for any purpose, in this Action or any other proceeding. WesternU must notify Class Counsel and the Court of its election to withdraw not later than 14 calendar days after the

Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL.

Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by attempting to make revisions to the Agreement, to the extent the Parties determine they can agree to the Court’s proposed changes to the Settlement in order to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for

purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If a reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the reviewing court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT.

If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by WesternU that any of the allegations in the Operative Complaint have merit or that WesternU has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that WesternU's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If for any reason the Settlement is not approved, WesternU reserves the right to contest any issues relating to class certification and liability. WesternU denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement, a Class should be certified in the Action. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, WesternU and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) to the extent necessary to report income to appropriate taxing authorities; (3) in response to a court order or subpoena; or (4) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, WesternU and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party

regarding this Agreement or the matters giving rise to this Agreement, except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

12.3. Avoidance of Undue Publicity. Except as required to obtain preliminary or final approval in this Action, Plaintiff and Class Counsel agree not to publicize the amount or other terms of this Settlement to any person. Nothing herein will restrict Class Counsel from including publicly available information regarding this Settlement in future judicial submissions regarding Class Counsel’s qualifications and experience.

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

12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

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

12.7. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form

or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

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

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

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

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

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

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

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

12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class

Counsel by WesternU in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 calendar days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from WesternU unless, prior to the Court's discharge of the Administrator's obligation, WesternU makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

12.16. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.17. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.18. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff: **MATERN LAW GROUP, PC**
Matthew J. Matern
Email: mmatern@maternlawgroup.com
Julia Z. Wells
Email: jwells@maternlawgroup.com
1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
Telephone: (310) 531-1900
Facsimile: (310) 531-1901

To Defendant: **LIEBERT CASSIDY WHITMORE**
Max S. Sank
Email: msank@lcwlegal.com
Jennifer K. Palagi

Email: jpalagik@twlegal.com
6033 West Century Boulevard, 5th Floor
Los Angeles, California 90045
Telephone: (310) 981-2000
Facsimile: (310) 337-0837

12.19 Execution in Counterparts. This Agreement shall be executed in one or more counterparts by original ink signature, which may be exchanged by the Parties via facsimile, or email, which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.20 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 from April 21, 2022 for the entire period of this settlement process.

DATED: 2-13-24

PLAINTIFF

By: Laura E Tovar
Laura Tovar

DATED: _____

DEFENDANT WESTERN UNIVERSITY OF
HEALTH SCIENCES

By: _____
Simone Miller
General Counsel, Defendant Western University of
Health Sciences

Email: jpalagi@lcwlegal.com
6033 West Century Boulevard, 5th Floor
Los Angeles, California 90045
Telephone: (310) 981-2000
Facsimile: (310) 337-0837

12.19 Execution in Counterparts. This Agreement shall be executed in one or more counterparts by original ink signature, which may be exchanged by the Parties via facsimile, or email, which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.20 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 from April 21, 2022 for the entire period of this settlement process.

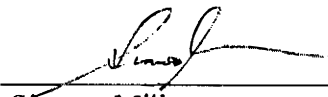
DATED: _____

PLAINTIFF

By: _____
Laura Tovar

DATED: January 24, 2024

**DEFENDANT WESTERN UNIVESITY OF
HEALTH SCIENCES**

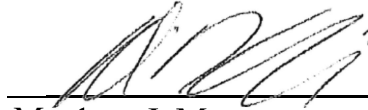
By:  _____
Simone Miller
General Counsel, Defendant Western University of
Health Sciences

Approved as to Form:

DATED: February 15, 2024

MATERN LAW GROUP, PC

By: _____



Matthew J. Matern

Julia Z. Wells

Attorneys for Plaintiff Laura Tovar, individually, and
on behalf of others similarly situated

DATED: _____

LIEBERT CASSIDY WHITMORE

By: _____

Max S. Sank

Jennifer K. Palagi

Attorneys for Defendant Western University of
Health Sciences

Approved as to Form:

DATED: _____

MATERN LAW GROUP, PC

By: _____

Matthew J. Matern

Julia Z. Wells

Attorneys for Plaintiff Laura Tovar, individually, and
on behalf of others similarly situated

DATED: 2/7/24

LIEBERT CASSIDY WHITMORE

By:  _____

Max S. Sank

Jennifer K. Palagi

Attorneys for Defendant Western University of
Health Sciences