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28 KAISER FOUNDATION HEALTH PLAN, INC. and  
KAISER FOUNDATION HOSPITALS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA**

ADONIA WILLIAMS, an individual, on behalf of  
herself and others similarly situated, and on behalf  
of the State of California as a private attorney  
general,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN, INC.,  
a California Corporation, KAISER  
FOUNDATION HOSPITALS, a California  
Corporation, and Does 1 through 50, Inclusive,

Defendants.

Case No. RG18917898

**ASSIGNED FOR ALL PURPOSES TO THE  
HONORABLE STEPHEN KAUS  
DEPT. 19**

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

Complaint Filed: August 23, 2018

1 Subject to final approval by the Court, which counsel and the Parties agree to diligently pursue  
2 and recommend in good faith, Plaintiff Adonia Williams (“Plaintiff”), individually and on behalf of all  
3 other similarly situated persons and aggrieved employees, on the one hand, and Defendant Kaiser  
4 Foundation Health Plan, Inc. (“Defendant”), on the other hand (collectively, the “Parties” and  
5 individually, a “Party”), hereby agree to the following binding settlement of the class, collective, and  
6 representative action designated *Williams v. Kaiser Foundation Health Plan, Inc., et al.* (Alameda  
7 County Superior Court Case No. RG18917898, (the “Action”), pursuant to the terms and conditions set  
8 forth below (the “Settlement,” “Settlement Agreement” or “Agreement”). Upon the Effective Date, and  
9 the payment by Defendant of all monies due under the Agreement, the Parties shall file a Satisfaction of  
10 Judgment with the Court.

11 **I. Definitions.**

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

14 **A. “Action.”**

15 The case entitled *Williams v. Kaiser Foundation Health Plan, Inc., et al.*, Alameda County  
16 Superior Court Case No. RG18917898.

17 **B. “Amended Complaint.”**

18 Prior to seeking Court approval of the Settlement, Plaintiff will file a first amended complaint to  
19 add causes of action under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”), to the  
20 extent the FLSA overlaps with the Released Claims, and will add a meal period claim. The amendment  
21 will also add other claims and theories encompassed by the settlement to ensure that all included claims  
22 and theories are clearly articulated and covered. Since settlement approval will be run through state  
23 court, Defendant agrees not to remove the case to federal court following the filing of the first amended  
24 complaint.

25 **C. “Attorneys’ Fees and Costs.”**

26 The attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s  
27 litigation and resolution of the Action, and all costs incurred and to be incurred by Class Counsel in the  
28 Action, including, but not limited to, costs associated with documenting the Settlement, providing any

1 notices required as part of the Settlement or Court's Order, securing the Court's approval of the  
2 Settlement, administering the Settlement, any expert expenses, and securing entry of judgment in the  
3 Action. Class Counsel will request attorneys' fees not to exceed one-third (1/3) of the Class Settlement  
4 Amount of \$1,250,000 (i.e., no more than \$416,666 in attorneys' fees), and litigation costs incurred not  
5 to exceed additional \$20,000 ("Attorneys' Fees and Costs"). The amount of Attorneys' Fees and Costs  
6 awarded are subject to the Court's approval. Defendant has agreed not to oppose Class Counsel's  
7 request for Attorneys' Fees and Costs as set forth above. Such Attorneys' Fees and Costs shall be paid  
8 from the Class Settlement Amount. Defendant shall have no liability for any other attorneys' fees or  
9 costs. Subject to Court approval, Class Counsel will decide the allocation of attorneys' fees and costs  
10 among Class Counsel. To the extent that the Court approves less than the amount of Attorneys' Fees  
11 and Costs that Class Counsel request, the difference between the requested and awarded amounts will be  
12 distributed to Class Members on a proportional basis relative to the size of their claims as set forth in  
13 Section V below. Class Counsel will be issued an IRS Form 1099 for the Attorneys' Fees and Costs  
14 detailed in this Section and shall be solely and legally responsible for paying all applicable taxes on the  
15 payment made pursuant to this Section. No counsel shall be entitled to attorneys' fees or costs for work  
16 performed in the Action other than as provided in this Settlement Agreement. The instant Settlement  
17 Agreement is the exclusive means for recovery of attorneys' fees and costs incurred in the Action by any  
18 attorney, law firm and/or other legal services provider. 10% of any Attorneys' Fees award will be held  
19 in an interest-bearing account, maintained either by the Settlement Administrator or by Class Counsel,  
20 pending the submission and approval of a Final Compliance Status Report after completion of the  
21 distribution process.

22 **D. "Class Counsel."**

23 Ackermann & Tilajef, P.C., Melmed Law Group, P.C., and Winston Law Group, P.C.  
24 shall be appointed Class Counsel upon approval by the Court.

25 **E. "Class List."**

26 A complete list of all Class Members that Defendant will diligently and in good faith compile  
27 from their records and provide to the Settlement Administrator within twenty-one (21) calendar days  
28 after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft

1 Office Excel spreadsheet and will include each Class Member’s full name, most recent mailing address,  
2 telephone number, Social Security number, dates of employment (*i.e.*, hire date and termination date, if  
3 applicable), approximate number of workweeks that a Class Member worked, and any other relevant  
4 information needed to calculate settlement payments.

5 **F. “Class Member(s)” or “Settlement Class.”**

6 All non-exempt persons employed by Defendant in the State of California during the Class  
7 Period. It shall be an opt out class. Individuals who submit a timely and valid request for exclusion  
8 shall not be Class Members.

9 **G. “Class Period.”**

10 The period from August 23, 2014 through the date of Preliminary Approval of the Settlement.

11 **H. “Class Representative Enhancement Payment.”**

12 The amount to be paid to Plaintiff in recognition of her effort and work in prosecuting the Action  
13 on behalf of Class Members and for her general release of claims. Subject to the Court granting Final  
14 Approval of this Settlement Agreement, Plaintiff will request Court approval of a Class Representative  
15 Enhancement Payment in the amount of \$12,500. Plaintiff will be issued an IRS Form 1099 in  
16 connection with her Class Representative Enhancement Payment. Plaintiff shall be solely and legally  
17 responsible for paying any and all applicable taxes on this payment and shall hold Defendant harmless  
18 from any claim or liability for taxes, penalties or interest arising as a result of the payment. The Class  
19 Representative Enhancement Payment will be paid from the Class Settlement Amount and will be in  
20 addition to Plaintiff’s Individual Settlement Payment paid pursuant to the Settlement and is conditioned  
21 on the execution of a general release of claims as set forth below. Defendant makes no representations  
22 as to the tax treatment or legal effect of the payment called for herein, and Plaintiff is not relying on any  
23 statement or representation by Defendant or its counsel in this regard. To the extent that the Court  
24 approves less than the amount of Class Representative Enhancement Payment that Plaintiff requests, the  
25 difference between the requested and awarded amounts will be distributed to Class Members on a  
26 proportional basis relative to the size of their claims as set forth in Section IV below.

27 **I. “Class Settlement Amount.”**

28 The sum of no more than a Gross Fund Value of \$1,250,000 to be paid by Defendant in full

1 satisfaction of all claims arising from the Action. The settlement will be on a common fund basis, there  
2 will be no claim form or claims process and there will be no reversion to Defendant. The Class  
3 Settlement Amount includes all Individual Settlement Payments to Class Members, the Class  
4 Representative Enhancement Payment to Plaintiff, Settlement Administration Costs to the Settlement  
5 Administrator, the Labor and Workforce Development Agency Payment, and the Attorneys’ Fees and  
6 Costs. Defendant will be responsible for any employer payroll taxes required by law, separate and in  
7 addition to the Class Settlement Amount, including the employer FICA, FUTA, and SDI contributions  
8 on the wage portion of the Individual Settlement Payments.

9 **J. “Effective Date.”**

10 The date on which the Final Award becomes final. For purposes of this Section, the Final Award  
11 “becomes final” only after the Court grants the Motion for Final Approval and upon the latter of: (i) if  
12 no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other  
13 challenge to, the Order Granting Final Approval (this time period shall not be less than 60 calendar days  
14 after the Court’s Order is entered); (ii) the date of affirmance of an appeal of the Order Granting Final  
15 Approval becomes final under the California Rules of Court; or (iii) the date of final dismissal of any  
16 appeal from the Order Granting Final Approval or the final dismissal of any proceeding on review of  
17 any court of appeal decision relating to the Order Granting Final Approval. If there are no objector(s) or  
18 intervener(s), then the Parties agree that there is no right to appeal and therefore this Settlement shall be  
19 deemed final and the Effective Date shall be Twenty (20) days after the Court has entered a Final  
20 Approval Order and Judgment which approves the Settlement; provided, however, in the event an appeal  
21 is filed, Plaintiff will file the appropriate motion to dismiss and if such appeal is filed before the  
22 settlement payments are mailed, such mailing shall be stayed until the appeal has been dismissed. It is  
23 the intention of the Parties that the Settlement shall not become effective until the Court’s Final Order  
24 approving the Settlement has become completely final, and no timely recourse remains for an appellant  
25 or objector to contest the Settlement.

26 **K. “Final Approval” or “Final Award.”**

27 The court order granting final approval of the Settlement Agreement.

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**L. “Individual Settlement Payment.”**

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

**M. “LWDA Notice.”**

The Parties agree that Plaintiff will submit a Notice to the Labor and Workforce Development Agency (“LWDA”) of this Settlement along with a copy of this Settlement Agreement within ten (10) calendar days of its execution by all Parties and Class Counsel, and will thereafter submit a copy of any judgment or any other order (*e.g.*, the Final Award) providing for an award of civil penalties in conformity with Labor Code Section 2699(l).

**N. “LWDA Payment.”**

The amount that the Parties have agreed to pay to the LWDA in connection with settlement of Plaintiff’s PAGA claims. The Parties have agreed that \$40,000 of the Class Settlement Amount will be allocated to the resolution of any Class Members’ claims arising under the PAGA (“PAGA Settlement Amount”). Pursuant to the PAGA, \$30,000 (75%) of the PAGA Settlement Amount will be paid to the LWDA and \$10,000 (25%) of the PAGA Settlement Amount will be included in the Net Settlement Amount. Any change in the requested LWDA Payment is not a material term of this Agreement. If the Court approves a lesser or greater amount than that requested, the other terms of this Agreement shall still remain in effect. However, some approval of an LWDA Payment is a material term of the Settlement and this Agreement. If the Court does not approve any LWDA Payment, then the entire Agreement will be, at Defendant’s sole discretion, void and unenforceable. In such a case, the Parties shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except that the costs of administration shall be borne by Defendant.

**O. “Net Settlement Amount.”**

The portion of the Class Settlement Amount remaining after deduction of the approved Class

1 Representative Enhancement Payment, Settlement Administration Costs, LWDA Payment, and the  
2 Attorneys' Fees and Costs.

3 **P. "Notice of Class Action Settlement."**

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

7 **Q. "Notice of Objection."**

8 A Class Member's valid and timely written objection to the Settlement Agreement. For the  
9 Notice of Objection to be valid, it must include the objector's full name, signature, address, telephone  
10 number and a written statement of all grounds for the objection accompanied by legal support, if any, for  
11 such objection. The Notice of Objection must be returned by mail or fax to the Settlement  
12 Administrator at the specified address or facsimile number and postmarked or faxed on or before the  
13 Response Deadline. The date of the postmark or fax receipt confirmation will be the exclusive means to  
14 determine whether a Notice of Objection has been timely submitted.

15 A failure to submit a written objection does not waive a Class Member's right to orally object at  
16 the Final Approval Hearing. Neither the Parties nor their counsel will solicit or otherwise encourage  
17 Class Members to submit written objections to the Settlement Agreement or appeal from the Order and  
18 Judgment. Class Counsel will not represent any Class Members with respect to any such objections to  
19 this Settlement. The Settlement Administrator shall provide counsel for the Parties with complete copies  
20 of all objections received, including the date of postmark or fax receipt confirmation for each objection,  
21 within five (5) business days of receipt. Class Counsel will provide a single packet of copies of any  
22 objections and supporting documents to the Court at least sixteen (16) court days before the Final  
23 Approval Hearing. A Class Member who excludes himself or herself from the Settlement shall lose  
24 standing to object.

25 **R. "Notice Packet."**

26 The Notice of Class Action Settlement and Individual Settlement Payment calculations, to  
27 include workweek information.

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1           **S.     “Plaintiff.”**

2           Plaintiff Adonia Williams on behalf of herself and all others similarly situated and the general  
3 public.

4           **T.     “Plaintiff’s Released Claims.”**

5           Upon the Effective Date, and as a condition of receiving any portion of her Class Representative  
6 Enhancement Payment, Plaintiff shall fully and finally release the Released Parties from any and all  
7 claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation,  
8 common law, or other source of law, including but not limited to claims arising from or related to her  
9 employment with Defendant and her compensation while an employee of Defendant. Plaintiff’s  
10 Released Claims include, but are not limited to, all claims arising from or related to the Action.  
11 Plaintiff’s Released Claims include all claims for unpaid wages, including, but not limited to, failure to  
12 pay minimum wages, overtime compensation, and interest; the calculation of the regular rate of pay;  
13 unpaid wages; meal period and rest period wages and penalties; reimbursement for business expenses;  
14 payment for all hours worked, including off-the-clock work; wage statements; deductions; failure to  
15 keep accurate records; unfair business practices; penalties, including, but not limited to, recordkeeping  
16 penalties, wage statement penalties, minimum wage penalties, and waiting-time penalties; and attorneys’  
17 fees and costs. Plaintiff’s Released Claims include all claims arising under the California Labor Code;  
18 all claims arising under the California Industrial Welfare Commission Wage Orders; the California  
19 Private Attorneys General Act of 2004 (PAGA); California Business and Professions Code  
20 section 17200, *et seq.*; the California Civil Code, to include sections 3287, 3336 and 3294; California  
21 Code of Civil Procedure § 1021.5; the California common law of contract; the Fair Labor Standards Act,  
22 29 U.S.C. § 201, *et seq.* and all regulations implementing and interpreting the FLSA, federal common  
23 law; the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* (ERISA), all claims for  
24 lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys’ fees and costs  
25 arising under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful  
26 termination, such as, by way of example only, (as amended) 42 U.S.C. § 1981, Title VII of the Civil  
27 Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment  
28 Act (ADEA), the California Fair Employment and Housing Act (FEHA), and the law of contract and



1 tort. This release excludes the release of claims not permitted by law.

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

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

11 **U. "Preliminary Approval."**

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

13 **V. "Qualified Settlement Account."**

14 The fund established by the Settlement Administrator pursuant to Internal Revenue Code Section  
15 1.468B-1.

16 **W. "Released Claims."**

17 By operation of the entry of the Final Approval Order and Judgment, and except as to rights this  
18 Agreement creates, each Class Member releases Defendant, and each of its present and former affiliates  
19 and all of their officers, directors, employees, agents, servants, representatives, attorneys, insurers,  
20 successors, and assigns, and any other persons acting by, through, under or in concert with any of them  
21 ("Released Parties"), from any and all claims, debts, liabilities, demands, obligations, penalties,  
22 premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of  
23 whatever kind or nature, whether known or unknown, contingent or accrued, and under any legal theory,  
24 which arise from or relate to the claims asserted in the operative first amended complaint in this matter,  
25 or which arise from or relate to the allegations set forth in the first amended complaint giving rise to  
26 those claims, including without limitation to, those arising under the California Labor Code, the  
27 Business & Professions Code (including Section 17200, *et seq.*), any IWC Wage Order; claims for  
28 restitution and other equitable relief, liquidated damages, punitive damages, interest, wages, overtime

1 (including failure to pay the regular rate of pay), meal and rest period penalties and/or underpaid  
2 premiums, late payment of wages, waiting time penalties, penalties for inaccurate wage statements based  
3 on the Labor Code sections in the first amended complaint, penalties pursuant to the Private Attorneys  
4 General Act (“PAGA”) based on the Labor Code sections in the first amended complaint, penalties of  
5 any nature whatsoever based on the claims and Labor Code sections in the first amended complaint, any  
6 other benefit claimed on account of the allegations asserted in the operative first amended complaint  
7 (“Released Claims”). This release shall only apply to all claims arising at any point during the Class  
8 Period through final approval of the settlement (“Release Period”), but this release shall not include  
9 unrelated claims like retaliation, discrimination, workers’ compensation, or ERISA claims, or claims  
10 arising outside the Release Period. This release shall extend through the date of final approval.

11 In addition to the claims enumerated above, each member of the Settlement Class who endorses  
12 his or her Individual Settlement Payment check by signing the back of the check and depositing or  
13 cashing the check shall release and forever waive any and all claims the Settlement Class member may  
14 have under claims asserted in the operative first amended Complaint for violations of the Fair Labor  
15 Standards Act (“FLSA”); and any and all claims for restitution, including without limitation back pay,  
16 attorneys’ fees and costs, interest, and liquidated damages under the FLSA (“FLSA Release”).

17 This Agreement is contingent upon the releases by Plaintiff and the Class Members as described  
18 herein, and upon covenants by Plaintiff and Class Members that they will not participate in any actions,  
19 lawsuits, proceedings, complaints or charges in any court or before any administrative body related to  
20 any claims they have released under this Agreement.

21 **X. “Released Parties.”**

22 Defendant and each of its present and former affiliates and all of their officers, directors,  
23 employees, agents, servants, registered representatives, attorneys, insurers, successors, and assigns, and  
24 any other persons acting by, through, under or in concert with any of them.

25 **Y. “Request for Exclusion.”**

26 A notice submitted by a Class Member requesting to be excluded from the Settlement. For the  
27 Request for Exclusion to be valid, it must include the Class Member’s full name and a written statement  
28 requesting to be excluded from this Settlement and do not wish to participate in the settlement. The

1 Request for Exclusion must be returned by mail or fax to the Settlement Administrator at the specified  
2 address or facsimile number and postmarked or faxed on or before the Response Deadline. The date of  
3 the postmark or fax receipt confirmation will be the exclusive means to determine whether a Request for  
4 Exclusion has been timely submitted. A Class Member who does not submit a timely and valid Request  
5 for Exclusion from the Settlement will be deemed a Class Member and will be bound by all terms of the  
6 Settlement Agreement if the Settlement is granted Final Approval by the Court.

7 Any Class Member who opts out of this Agreement may not submit an Objection and shall not  
8 receive any Individual Settlement Payment, except for his or her share of the PAGA award because a  
9 Class Member who opts out is opting out of class relief only and is still an “aggrieved employee” under  
10 PAGA, and shall not be bound by the releases set forth in this Agreement. If a Class Member submits  
11 both a Request for Exclusion and an Objection, then the Request for Exclusion will be valid and will  
12 invalidate the Objection.

13 **Z. “Response Deadline.”**

14 The deadline by which Class Members must mail or fax to the Settlement Administrator valid  
15 Requests for Exclusion, Notices of Objection to the Settlement, or workweek disputes. The Response  
16 Deadline will be sixty (60) calendar days from the initial mailing of the Notice Packet by the Settlement  
17 Administrator, unless the 60th day falls on a Sunday or Federal holiday, in which case the Response  
18 Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response  
19 Deadline for Requests for Exclusion, Notices of Objection, or workweek disputes will be extended  
20 fifteen (15) calendar days for any Class Member who is re-mailed a Notice Packet by the Settlement  
21 Administrator, unless the 15th day falls on a Sunday or Federal holiday, in which case the Response  
22 Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response  
23 Deadline may also be extended by express agreement between Class Counsel and Defendant. Under no  
24 circumstances, however, will the Settlement Administrator have the authority to unilaterally extend the  
25 deadline for Class Members to submit a Request for Exclusion, Notice of Objection to the Settlement, or  
26 workweek disputes. A failure to submit a written objection does not waive a Class Member’s right to  
27 verbally object at the Final Approval Hearing.

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1           **AA. “Settlement Administrator.”**

2           CPT Group shall be the third-party class action settlement administrator as agreed to by the  
3 Parties and approved by the Court for the purposes of administering this Settlement and will issue to  
4 class members Forms W-2 and 1099 for all amounts paid under this settlement, making all deductions  
5 and withholdings required under law. The Parties each represent that they do not have any financial  
6 interest in the Settlement Administrator or otherwise have a relationship with the Settlement  
7 Administrator that could create a conflict of interest.

8           **BB. “Settlement Administration Costs.”**

9           The costs payable from the Class Settlement Amount to the Settlement Administrator are for  
10 administering this Settlement, including, but not limited to, printing, distributing, and tracking  
11 documents for this Settlement, calculating estimated amounts per Class Member, tax reporting,  
12 distributing the Class Settlement Amount, and providing necessary reports and declarations, and other  
13 duties and responsibilities set forth herein to process this Settlement Agreement, and as requested by the  
14 Parties. The Settlement Administration Costs will be paid from the Class Settlement Amount, including,  
15 if necessary, any such costs in excess of the amount represented by the Settlement Administrator as  
16 being the maximum costs necessary to administer the Settlement. The Settlement Administration Costs  
17 are currently estimated to not exceed \$75,000. To the extent actual Settlement Administration Costs are  
18 greater than \$75,000, such excess amount will be deducted from the Class Settlement Amount, subject  
19 to the Court’s approval. The Settlement Administration Costs will be paid no sooner than fifteen (15)  
20 calendar days following the Effective Date. Settlement Administration Costs allocated but not paid to  
21 the Settlement Administrator will be distributed to the Settlement Class pro rata.

22           **CC. “Settlement Payment Check.”**

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

1 of the class will be issued settlement checks for the PAGA portion of the Settlement only, and such  
2 checks will not contain the FLSA consent language above.

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

4 Within fourteen (14) calendar days after the Effective Date of the Settlement, Defendant will  
5 make a one-time deposit of all approved and claimed amounts from the Class Settlement Amount into a  
6 Qualified Settlement Account to be established by the Settlement Administrator. Within fourteen (14)  
7 calendar days of the funding of the Settlement, the Settlement Administrator will issue payments to: (a)  
8 Class Members; (b) the Labor and Workforce Development Agency (LWDA); (c) Plaintiff; and (d)  
9 Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved  
10 services performed in connection with the Settlement. Defendant has no obligation to deposit such  
11 funds prior to the deadline set forth herein.

12 **III. Labor and Workforce Development Agency Payment.**

13 Subject to Court approval, the Parties agree that \$40,000 of the Class Settlement Amount will be  
14 designated for satisfaction of Plaintiff's and Class Members' PAGA claims (the "PAGA Settlement  
15 Amount"). Pursuant to the PAGA, \$30,000 (75%) of the PAGA Settlement Amount will be paid to the  
16 LWDA and \$10,000 (25%) of the PAGA Settlement Amount will be included in the Net Settlement  
17 Amount.

18 **IV. Individual Settlement Payment Calculations.**

19 Individual Settlement Payments will be calculated and apportioned from the Net Settlement  
20 Amount based on the number of workweeks that a Class Member worked during the Class Period.

21 Specific calculations of Individual Settlement Payments will be made as follows:

22 Defendant will calculate the total number of weeks worked by each Class Member ("Individual  
23 Workweeks"), the total number of weeks worked by all Class Members who do not opt out of the  
24 Settlement ("Class Workweeks"), and the total number of weeks worked during the Class Period  
25 by all Class Members and individuals who opted out of the Settlement ("Total Workweeks").

26 To determine each Class Member's Individual Settlement Payment, the Settlement Administrator  
27 will separately calculate the non-PAGA and PAGA allocations. Each PAGA aggrieved employee  
28 (i.e., each Class Member who worked from August 14, 2017 to the date of preliminary approval)

1 shall share equally in the 25% PAGA allocation. Class Members who do not opt out of the  
2 Settlement will receive an Individual Settlement Payment that includes the sum of the non-  
3 PAGA and PAGA allocations. Individuals who opt out of the Settlement will receive an  
4 Individual Settlement Payment that represents that individual's share of the PAGA allocation  
5 only.

6 The Settlement Administrator will calculate the non-PAGA allocation for each Class  
7 Member using the following formula: Individual non-PAGA Settlement Payment =  
8 (Individual Workweeks ÷ Class Workweeks) × (Net Settlement Amount less the PAGA  
9 allocation).

10 The Settlement Administrator will calculate the PAGA allocation for each individual  
11 using the following formula: Individual PAGA Award Payment = (Individual  
12 Workweeks ÷ Total Workweeks) × (PAGA allocation).

13 The Individual Settlement Payment (excluding the PAGA component) will be reduced by any  
14 required deductions for each Class Member as set forth herein, including employee-side tax  
15 withholdings or deductions.

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

23 **V. Settlement Administration Process.**

24 1. The Parties agree to cooperate in the administration of the Settlement and to make all  
25 reasonable efforts to control and minimize the costs and expenses incurred in administration of the  
26 Settlement. The Settlement Administrator will provide the following services:

- 27 a. Establish and maintain a Qualified Settlement Account.
- 28 b. Calculate the Individual Settlement Payment each Class Member is eligible to

- 1 receive.
- 2 c. Translate the Notice Packet into Spanish at the request of any Class Members.
- 3 d. Print and mail the Notice Packet.
- 4 e. Establish and maintain a toll-free information telephone support line to assist
- 5 Class Members who have questions regarding the Notice Packet.
- 6 f. Conduct additional address searches for mailed Notice Packets that are returned
- 7 as undeliverable.
- 8 g. Process Requests for Exclusion, calculate Class Members' Individual Settlement
- 9 Payment, field inquiries from Class Members, and administer any Requests for
- 10 Exclusion. This service will include settlement proceeds calculation, printing and
- 11 issuance of Settlement Payment Checks, and preparation of IRS W-2 and 1099
- 12 Tax Forms. Basic accounting for and payment of employee tax withholdings and
- 13 forwarding all payroll taxes and penalties to the appropriate government
- 14 authorities will also be included as part of this service.
- 15 h. Issuing to Plaintiff, Class Members, and Plaintiff's Counsel any W-2, 1099, or
- 16 other tax forms as may be required by law for all amounts paid pursuant to this
- 17 Settlement.
- 18 i. Provide declarations and/or other information to the Court as requested by the
- 19 Parties and/or the Court.
- 20 j. Provide weekly status reports to counsel for the Parties.
- 21 2. Within twenty-one (21) calendar days of Preliminary Approval, Defendant will provide
- 22 the Class List to the Settlement Administrator.
- 23 3. Within fourteen (21) calendar days after receiving the Class List from Defendant, the
- 24 Settlement Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S.
- 25 Mail, using the last known mailing addresses identified in the Class List.
- 26 4. Prior to mailing, the Settlement Administrator will perform a search based on the
- 27 National Change of Address Database for information to update and correct any known or identifiable
- 28 address changes. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or

1 before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding  
2 address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the  
3 Notice Packet. If no forwarding address is provided, the Settlement Administrator will promptly attempt  
4 to determine the correct address using a skip-trace, or other search using the name, address and/or Social  
5 Security number of the Class Member involved, and will then perform a single re-mailing. Those Class  
6 Members who receive a re-mailed Notice Packet, whether by skip-trace or by request, will have between  
7 the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark or fax a  
8 Request for Exclusion or Notice of Objection to the Settlement.

9 5. All Class Members will be mailed a Notice Packet containing the forms attached as  
10 Exhibit 1 as approved by the Court.

11 6. Class Members will have an opportunity to dispute the information provided in their  
12 Notice Packets. To the extent Class Members dispute the number of workweeks to which they have  
13 been credited or the amount of their Individual Settlement Payment, Class Members may produce  
14 evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence  
15 rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a  
16 Class Member produces evidence to the contrary, the Settlement Administrator will evaluate the  
17 evidence submitted by the Class Member and will make the final decision as to the number of eligible  
18 workweeks that should be applied and/or the Individual Settlement Payment to which the Class Member  
19 may be entitled. The workweek dispute must be returned by mail or fax to the Settlement Administrator  
20 at the specified address or facsimile number and postmarked or faxed on or before the Response  
21 Deadline. The date of the postmark or fax receipt confirmation will be the exclusive means to determine  
22 whether a workweek dispute has been timely submitted. All such disputes are to be resolved not later  
23 than fourteen (14) calendar days after the Response Deadline.

24 7. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the  
25 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The  
26 Settlement Administrator will mail the Class Member a cure letter within three (3) business days of  
27 receiving the defective submission to advise the Class Member that his or her submission is defective  
28 and that the defect must be cured to render the Request for Exclusion valid. The Class Member will



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

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

11 **VI. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

12 1. Defendant’s Option to Nullify the Settlement Agreement. If five percent (5%) or more of  
13 the Class Members opt out of the Settlement (or are otherwise excluded), Defendant, in its sole  
14 discretion, shall have the option of nullifying the Settlement Agreement. Defendant shall give written  
15 notice to Class Counsel within five (5) calendar days after the Settlement Administrator informs the  
16 Parties that the opt out rate exceeds five percent (5%). In such a case, the Parties and any funds to be  
17 awarded under this Settlement Agreement shall be returned to their respective statuses as of the date and  
18 time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects  
19 as if this Settlement Agreement had not been executed, except that any fees already incurred by the  
20 Settlement Administrator shall be paid by Defendant. In the event that the Class List contains more than  
21 19,012 Class Members, i.e., more than 10% than the estimated 17,284 Class Members at the time of  
22 mediation of this matter, then Defendant shall have the option to either (1) agree to a pro-rata increase of  
23 the Class Settlement Amount for the additional Class Members on the Class List above and beyond  
24 17,284, or (2) agree to end the release period as of the date that the class reached 19,012 Class Members.

25 2. Nullification of the Settlement Agreement. In the event: (i) the Court does not enter the  
26 Preliminary Approval Order and approve the Released Settlement specified herein; (ii) the Court does  
27 not finally approve the Settlement as provided herein; (iii) Defendant exercises its option to nullify the  
28 Settlement Agreement based on an excessive number of opt-outs, as described in the above Section; or

1 (iv) the Settlement does not become final for any other reason (e.g., an objection by the LWDA), this  
2 Settlement Agreement shall be null and void. Any order or judgment entered by the Court in  
3 furtherance of this Settlement Agreement shall be treated as void from the beginning, and the  
4 Stipulations and Recitals contained herein shall be of no force or effect, and shall not be treated as an  
5 admission by the Parties or their counsel. In such a case, the Parties and any funds to be awarded under  
6 this Settlement Agreement shall be returned to their respective statuses as of the date and time  
7 immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in all  
8 respects as if this Settlement Agreement had not been executed, except that any fees already incurred by  
9 the Settlement Administrator shall be shared equally.

10 3. Settlement Terms Bind All Class Members Who Do Not Opt Out. Any Class Member  
11 who does not affirmatively opt out of the Settlement Agreement by submitting a timely and valid  
12 Request for Exclusion will be bound by all its terms.

13 **VII. Certification Reports Regarding Individual Settlement Payment Calculations.**

14 1. The Settlement Administrator will provide Defendant’s counsel and Class Counsel a  
15 weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for  
16 Exclusion; (b) any objections submitted to the Settlement along with a copy of any such objection; and  
17 (c) whether any Class Member has submitted a challenge to any information contained in his/her Notice  
18 Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated  
19 reports regarding the administration of the Settlement Agreement as needed or requested.

20 2. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to  
21 Class Members will be negotiable for one-hundred eighty (180) calendar days. After one-hundred  
22 eighty (180) calendar days from the date of mailing, the checks shall become null and void, and any  
23 monies remaining in the distribution account shall be distributed to the *cy pres* recipient selected by the  
24 parties, California Rural Legal Assistance.

25 3. Certification of Completion. Upon completion of administration of the Settlement, the  
26 Settlement Administrator will provide a written declaration under oath to certify such completion to the  
27 Court and counsel for all Parties.  
28

1 **VIII. Tax Treatment of Individual Settlement Payments.**

2 All Individual Settlement Payments will be allocated as follows: one-third (1/3) wages, one-third  
3 (1/3) interest and one-third (1/3) penalties.

4 The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated  
5 to non-wages will be reported on an IRS Form-1099 by the Settlement Administrator. The Gross  
6 Individual Settlement Payments will be reduced by any required legal deductions for each Class  
7 Member. All standard employee payroll deductions will be made for state and federal withholding  
8 taxes, including any other applicable payroll deductions owed by the Class Members as a result of the  
9 Wage Component, resulting in a net wage component. The Settlement Administrator will issue a check  
10 and W-2 Form to each Class Member for the wage component. No withholding shall be made on the  
11 penalty portions of the Gross Individual Settlement Payment. The Settlement Administrator will issue a  
12 second check and IRS Form-1099 for the remaining penalty component. The Settlement Administrator  
13 shall be responsible for issuing the payments and calculating and withholding all required state and  
14 federal taxes. The Settlement Administrator shall determine the eligibility for, and the amounts of, any  
15 Individual Settlement Payments under the terms of this Settlement Agreement. Any disputes not  
16 resolved by the Settlement Administrator concerning the administration of the Settlement will be  
17 resolved by the Court, under the laws of the State of California. Prior to any such involvement of the  
18 Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of  
19 involving the Court.

20 **IX. Administration of Taxes by the Settlement Administrator.**

21 1. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect  
22 of the payments called for hereunder, and Plaintiff and Class Members are not relying on any statement,  
23 representation, or calculation by Defendant or by the Settlement Administrator in this regard. Plaintiff  
24 and Class Members understand and agree they will be solely responsible for the payment of their share  
25 of any taxes and penalties assessed on the payments described herein.

26 2. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT  
27 (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY  
28 TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN

1 “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS  
2 SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE  
3 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS  
4 OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE  
5 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE  
6 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10,  
7 AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON  
8 HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE  
9 (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT,  
10 (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE  
11 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY  
12 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR  
13 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY  
14 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO  
15 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT  
16 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX  
17 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING)  
18 UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX  
19 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED  
20 BY THIS SETTLEMENT AGREEMENT.

21 **X. Release by Class Members.**

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

26 2. It is the desire of Plaintiff, Class Members (except those who exclude themselves from  
27 the Settlement), and Defendant to fully, finally, and forever settle, compromise, and discharge the  
28 Released Claims. Upon the Final Approval by the Court of this Settlement Agreement, and except as to

1 such rights or claims as may be created by this Settlement Agreement, the Class Members shall fully  
2 release and discharge the Released Parties from any and all Released Claims for the entire Class Period.  
3 This release shall be binding on all Class Members who have not timely submitted a valid and complete  
4 Request for Exclusion, including each of their respective attorneys, agents, spouses, executors,  
5 representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the  
6 Released Parties, who shall have no further or other liability or obligation to any Class Member with  
7 respect to the Released Settlement, except as expressly provided herein.

8 **XI. Materiality of Terms.**

9 1. The Court's approval of Class Representative Enhancement Payment, Attorneys' Fees  
10 and Costs, and the LWDA Payment are not material terms of this Agreement. If the Court approves only  
11 a lesser amount of these payments, then the other terms of this Agreement shall still remain in effect and  
12 the difference will remain part of the Net Settlement Amount.

13 2. Except as otherwise stated herein, each substantive term of this Agreement is material  
14 and has been relied upon by the Parties in entering into this Agreement. Any failure by the Court to fully  
15 and completely approve the material terms of this Settlement Agreement will result in this Settlement  
16 Agreement entered into by the Parties, and all obligations under this Settlement Agreement, being  
17 nullified and voided. Upon such failure, any order or judgment entered by the Court in furtherance of  
18 this Settlement Agreement shall be treated as void from the beginning, and the Stipulations and Recitals  
19 contained herein shall be of no force or effect and shall not be treated as an admission by the Parties or  
20 their counsel. In such a case, the Parties and any funds to be awarded under this Settlement Agreement  
21 shall be returned to their respective statuses as of the date and time immediately prior to the execution of  
22 this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement  
23 had not been executed, except that any fees already incurred by the Settlement Administrator shall be  
24 paid equally by both Parties.

25 **XII. Preliminary Approval Hearing.**

26 1. Plaintiff will obtain a hearing before the Court to request Preliminary Approval of the  
27 Settlement Agreement and the entry of a Preliminary Approval Order for: (a) conditional certification of  
28 the Settlement Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement

1 Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing.

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

5 3. Class Counsel will be responsible for drafting all documents necessary to obtain  
6 Preliminary Approval.

7 **XIII. Final Settlement Approval Hearing and Entry of Judgment.**

8 1. Upon expiration of the Response Deadline, and with the Court’s permission, a Final  
9 Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the  
10 Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement Payments;  
11 (b) the LWDA Payment; (c) the Attorneys’ Fees and Costs; (d) the Class Representative Enhancement  
12 Payment; and (e) all Settlement Administration Costs.

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

15 3. Class Counsel will be responsible for drafting all documents necessary to obtain Final  
16 Approval. Class Counsel will also be responsible for drafting the Attorneys’ Fees and Costs application  
17 to be heard at the Final Approval/Settlement Fairness Hearing.

18 **XIV. Judgment and Continued Jurisdiction.**

19 1. The Court shall retain jurisdiction with respect to the interpretation, implementation, and  
20 enforcement of the terms of this Settlement Agreement and all orders and judgments entered in  
21 connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for  
22 purposes of interpreting, implementing, and enforcing the Settlement embodied in this Settlement  
23 Agreement and all orders and judgments entered in connection therewith.

24 **XV. Other Provisions.**

25 1. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set  
26 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein.  
27 Any Exhibits to this Settlement are an integral part of the Settlement.

28 2. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the

1 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements  
2 may be deemed binding on the Parties.

3 3. Amendment or Modification. This Settlement Agreement may be amended or modified  
4 only by a written instrument signed by counsel for all Parties or their successors-in-interest and  
5 approved by the Court. If the Court requires certain non-material modifications to be made to this  
6 Settlement Agreement as a condition for granting approval, then the parties agree that their counsel can  
7 enter into a stipulation to modify this agreement to conform it to the Court's Order and that signatures of  
8 counsel shall suffice for such an amendment.

9 4. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and  
10 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement  
11 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant  
12 to this Settlement Agreement to effectuate its terms and to execute any other documents required to  
13 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with  
14 each other and use their best efforts to effect the implementation of the Settlement. If the Parties are  
15 unable to reach agreement on the form or content of any document needed to implement the Settlement,  
16 or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement,  
17 the Parties may seek the assistance of Jeff Ross to resolve such disagreement.

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

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

22 7. Execution and Counterparts. This Settlement Agreement is subject only to the execution  
23 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All  
24 executed counterparts and each of them, including facsimile and scanned copies of the signature page,  
25 will be deemed to be one and the same instrument.

26 8. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this  
27 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at  
28 this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into

1 account all relevant factors, present and potential. The Parties further acknowledge that they are each  
2 represented by competent counsel and that they have had an opportunity to consult with their counsel  
3 regarding the fairness and reasonableness of this Settlement.

4 9. Invalidity of Any Provision. Before declaring any provision of this Settlement  
5 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent  
6 possible consistent with applicable precedents so as to define all provisions of this Settlement  
7 Agreement valid and enforceable.

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

11 11. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to  
12 class certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved,  
13 the stipulation to certification will be void. The Parties further agree that certification for purposes of  
14 the Settlement is not an admission that class action certification is proper under the standards applied to  
15 contested certification motions and that this Settlement Agreement will not be admissible in this or any  
16 other proceeding as evidence that either: (a) a class action should be certified or (b) Defendant is liable  
17 to Plaintiff or any Class Member, other than according to the Settlement's terms.

18 12. Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve  
19 the dispute that has arisen between them and to avoid the burden, expense, and risk of continued  
20 litigation. In entering into this Settlement Agreement, Defendant does not admit, and specifically denies,  
21 that it has violated any federal, state, or local law; violated any regulations or guidelines promulgated  
22 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any  
23 contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in  
24 any other unlawful conduct with respect to its employees. Neither this Settlement Agreement, nor any  
25 of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an  
26 admission or concession by Defendant of any such violations or failures to comply with any applicable  
27 law. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this  
28 Settlement Agreement and its terms and provisions shall not be offered or received as evidence in any



1 action or proceeding to establish any liability or admission on the part of Defendant or to establish the  
2 existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or  
3 other applicable law.

4 13. Captions. The captions and section numbers in this Settlement Agreement are inserted  
5 for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the  
6 provisions of this Settlement Agreement.

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

10 15. Enforcement Action. If one or more of the Parties institutes any legal action or other  
11 proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare  
12 rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover  
13 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees  
14 incurred in connection with any enforcement actions.

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

20 17. Representation by Counsel. The Parties acknowledge that they have been represented by  
21 counsel throughout all negotiations that preceded the execution of this Settlement Agreement and that  
22 this Settlement Agreement has been executed with the consent and advice of counsel and reviewed in  
23 full. Plaintiff

24 18. All Terms Subject to Final Court Approval. All amounts and procedures described in  
25 this Settlement Agreement herein will be subject to final Court approval.

26 19. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good  
27 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this  
28 Settlement Agreement.

1 20. Binding Agreement. The Parties warrant that they understand and have full authority to  
2 enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on  
3 all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its  
4 terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under  
5 federal or state law. Plaintiff, and not her representative(s), must personally execute this Settlement  
6 Agreement.

7 21. No Prior Assignments or Undisclosed Liens. Plaintiff and Class Counsel represent that  
8 they have not assigned, transferred, conveyed, or otherwise disposed of any Released Claim or claim to  
9 attorneys' fees and costs award to be paid under this Agreement. Plaintiff and Class Counsel further  
10 represent and warrant that there are not any liens or claims against any amount that Defendant is to pay  
11 under this Agreement. Plaintiff and Class Counsel agree to defend, to indemnify, and to hold Defendant  
12 harmless from any liability, losses, claims, damages, costs, or expenses, including reasonable attorneys'  
13 fees, resulting from a breach of these representations or from any lien or assignment.

14 22. Confidential Information. Class Counsel will destroy all confidential documents and  
15 information provided by Defendant within 60 calendar days after the completion of the administration of  
16 this Agreement. Class Counsel further agree that none of the information provided by Defendant shall  
17 be used for any purpose other than prosecution of this Action.

18 23. Publicity. Neither Plaintiff nor Class Counsel will publicize the Settlement in any way  
19 prior to preliminary approval. Nothing in this Stipulation shall preclude Class Counsel from  
20 communicating with members of the Settlement Class after preliminary approval, and after preliminary  
21 approval Class Counsel are permitted to post court-filed documents on their website for viewing by the  
22 Settlement Class.

23 **SO AGREED:**

24 Dated: January 14, 2020

DocuSigned by:  
  
Plaintiff, Plaintiff Williams

26 Dated: January \_\_, 2020

27 By \_\_\_\_\_  
28 For Kaiser Foundation Health Plan, Inc.

1           20.    Binding Agreement. The Parties warrant that they understand and have full authority to  
2 enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on  
3 all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its  
4 terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under  
5 federal or state law. Plaintiff, and not her representative(s), must personally execute this Settlement  
6 Agreement.

7           21.    No Prior Assignments or Undisclosed Liens. Plaintiff and Class Counsel represent that  
8 they have not assigned, transferred, conveyed, or otherwise disposed of any Released Claim or claim to  
9 attorneys' fees and costs award to be paid under this Agreement. Plaintiff and Class Counsel further  
10 represent and warrant that there are not any liens or claims against any amount that Defendant is to pay  
11 under this Agreement. Plaintiff and Class Counsel agree to defend, to indemnify, and to hold Defendant  
12 harmless from any liability, losses, claims, damages, costs, or expenses, including reasonable attorneys'  
13 fees, resulting from a breach of these representations or from any lien or assignment.

14           22.    Confidential Information. Class Counsel will destroy all confidential documents and  
15 information provided by Defendant within 60 calendar days after the completion of the administration of  
16 this Agreement. Class Counsel further agree that none of the information provided by Defendant shall  
17 be used for any purpose other than prosecution of this Action.

18           23.    Publicity. Neither Plaintiff nor Class Counsel will publicize the Settlement in any way  
19 prior to preliminary approval. Nothing in this Stipulation shall preclude Class Counsel from  
20 communicating with members of the Settlement Class after preliminary approval, and after preliminary  
21 approval Class Counsel are permitted to post court-filed documents on their website for viewing by the  
22 Settlement Class.

23 **SO AGREED:**

24  
25 Dated: January \_\_, 2020

\_\_\_\_\_  
Plaintiff Adonia Williams

26  
27 Dated: January 16, 2020

By   
\_\_\_\_\_  
For Kaiser Foundation Health Plan, Inc.

1 **Approval As To Form And Content By Counsel:**

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DATED: January 14, 2020

Respectfully submitted,  
ACKERMANN & TILAJEF, P.C.

DocuSigned by:  
By: Craig Ackermann  
Craig Ackermann  
Attorneys for Plaintiff and Proposed Classes

DATED: January 14, 2020

Respectfully submitted,  
WINSTON LAW GROUP, P.C.

DocuSigned by:  
By: David Winston  
David S. Winston  
Attorneys for Plaintiff and Proposed Classes

DATED: January 14, 2020

Respectfully submitted,  
MELMED LAW GROUP, P.C.

DocuSigned by:  
By: Jonathan Melmed, Esq.  
Jonathan Melmed  
Attorneys for Plaintiff and Proposed Classes

DATED: January \_\_, 2020

Respectfully submitted,  
SEYFARTH SHAW LLP

By \_\_\_\_\_  
Christian J. Rowley  
Kerry M. Friedrichs  
Pamela L. Vartabedian  
Attorneys for Defendants

KAISER FOUNDATION HEALTH PLAN, INC.  
and KAISER FOUNDATION HOSPITALS

1 **Approval As To Form And Content By Counsel:**

2  
3 DATED: January \_\_, 2020

Respectfully submitted,  
ACKERMANN & TILAJEF, P.C.

6 By: \_\_\_\_\_  
7 Craig J. Ackermann  
8 Attorneys for Plaintiff and Proposed Classes

9 DATED: January \_\_, 2020

Respectfully submitted,  
WINSTON LAW GROUP, P.C.

12 By: \_\_\_\_\_  
13 David S. Winston  
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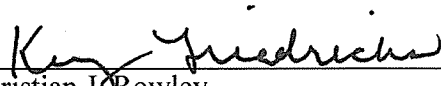
15 DATED: January \_\_, 2020

Respectfully submitted,  
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19 Jonathan Melmed  
20 Attorneys for Plaintiff and Proposed Classes

21 DATED: January 17, 2020

Respectfully submitted,  
SEYFARTH SHAW LLP

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28 KAISER FOUNDATION HEALTH PLAN, INC.  
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