

Kevin J, Stoops, Esq. (SBN 332200)  
kstoops@sommerspc.com  
SOMMERS SCHWARTZ, P.C.  
One Towne Square, Suite 1700  
Southfield, MI 48076  
Telephone: (248) 355-0300  
Facsimile: (248) 746-4001

*Attorney for Plaintiffs  
and Proposed Class and Collective Members*

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**ADRIANNA JARRETT and MARY  
NGETHE** individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

**[24]7.AI, INC.,**

Defendant

Case No.: 23-cv-00677-EMC

**NOTICE OF UNOPPOSED MOTION AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF CLASS/COLLECTIVE  
ACTION SETTLEMENT**

Honorable Edward M. Chen

Complaint Filed: February 15, 2023

Final Approval Hearing: November 26, 2024 at  
3:30 p.m.

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that the matter may be heard before the Honorable Edward M. Chen  
3 in Courtroom 5 of this Court, located on the 17<sup>th</sup> Floor of the San Francisco Courthouse, 450 Golden Gate  
4 Avenue, San Francisco, California 95113 on November 26, 2024 at 3:30 p.m. In this motion, Plaintiffs  
5 respectfully request entry of an order (1) certifying a class for settlement purposes under the Federal Rules  
6 of Civil Procedure, Rule 23 (e.g., “Rule 23”) and certifying a FLSA collective for settlement purposes  
7 under 29 U.S.C. § 201, *et seq.* (as defined in the Parties’ Settlement Agreement); (2) finally approving the  
8 Parties’ Settlement Agreement; (3) appointing Plaintiffs Adrianna Jarrett and Mary Ngethe as Class  
9 Representatives for the Class/Collective and Plaintiffs’ counsel as Class Counsel; and (4) awarding fees  
10 to the third-party Settlement Administrator Atticus Administration, LLC.

11 Plaintiffs respectfully submit good cause exists for granting the Motion for the reasons set forth in  
12 the concurrently filed documents. Defendant’s counsel has reviewed the documents being filed in support  
13 of this Motion and does not oppose it, though Defendant has reserved the right to submit a Notice of Non-  
14 Opposition, together with any additional points and authorities for the Court’s consideration.

15 This Motion is based upon this Notice of Motion, the Memorandum of Points and Authorities and  
16 other documents filed herewith, including the Settlement Agreement, the Declaration of Class Counsel,  
17 the [Proposed] Order, and the other pleadings and records on file in this action, and the presentations of  
18 counsel and such oral or documentary evidence as may be presented at the hearing on this unopposed  
19 Motion.

20  
21 SOMMERS SCHWARTZ, P.C.

22 DATED: October 9, 2024

23 By: /s/ Kevin J. Stoops  
24 Kevin J. Stoops (SBN 332200)  
25 SOMMERS SCHWARTZ, P.C.  
26 One Towne Square, Suite 1700  
27 Southfield, Michigan 48076  
28 Telephone: (248) 355-0300  
kstoops@sommerspc.com

*Attorneys for Plaintiff and Proposed Collective and  
Class Members*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I certify that on October 9, 2024, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

/s/Kevin J Stoops  
Kevin J. Stoops

1 Kevin J, Stoops, Esq. (SBN 332200)  
kstoops@sommerspc.com  
2 SOMMERS SCHWARTZ, P.C.  
One Towne Square, 17th Floor  
3 Southfield, MI 48076  
Telephone: (248) 355-0300  
4 Facsimile: (248) 746-4001

5 *Attorney for Plaintiffs*  
*and Proposed Class and Collective Members*  
6

7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
9

10 **ADRIANNA JARRETT and MARY**  
11 **NGETHE** individually and on behalf of all  
others similarly situated,

12 Plaintiffs,

13 v.

14 **[24]7.AI, INC.,**

15 Defendant  
16  
17  
18

Case No.: 23-cv-00677-EMC

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF CLASS/COLLECTIVE  
ACTION SETTLEMENT**

Honorable Edward M. Chen

Complaint Filed: February 15, 2023

Trial Date: None Set

Hearing (if necessary): November 26, 2024 at  
3:30 p.m.

**TABLE OF CONTENTS**

1

2 **I. INTRODUCTION ..... 1**

3 **II. PROCEDURAL HISTORY OF THE CASE ..... 2**

4

5 A. The Proceedings, Pleadings, and Parties..... 2

6 B. Summary of Discovery Conducted Prior to Mediation ..... 4

7 C. Reasonableness of Settlement ..... 5

8 **III. SETTLEMENT TERMS..... 7**

9 A. Value of the Settlement to the Class ..... 7

10 B. Size of the Class/Collective and Class Definition..... 8

11 C. Nature of Payments, Released Claims and Released Parties..... 9

12 D. Notice, Opt Out and Objection Periods ..... 11

13 E. Attorneys’ Fees, Litigation Expenses, Incentive Awards and Settlement Administration. 12

14 F. Notice Procedures..... 12

15 G. Issuance of Notice and Class Member Reaction ..... 13

16 **IV. ARGUMENT IN SUPPORT OF FINAL APPROVAL ..... 13**

17 A. The Best Practicable Notice of Settlement Has Been Provided to the Class/Collective .... 13

18 B. Final Approval Standards Under Rule 23 and the FLSA..... 14

19 C. The Settlement Agreement is Presumptively Fair Because No Class/Collective Members

20 Have Objected to the Settlement, the Significant Discovery Conducted, Class Counsel’s

21 Experience, and Arms-Length Negotiations.....15

22 1. Zero Objections and Zero Opt Out Requests ..... 16

23 2. The Parties Engaged in Substantial Investigation and Analysis of the Legal Issues

24 ..... 17

25 3. The Recommendations of Experienced Counsel Favor Approval of the Settlement

26 Agreement ..... 17

27 4. The Parties Participated in Arms-Length Negotiations Before an Experienced

28 Neutral Mediator ..... 18

D. The Settlement Agreement Provides Substantial, Certain Benefits and Avoids the Risk, Cost, Delay and Burden of Further Litigation..... 18

1. The Value of the Settlement Favors Final Approval ..... 18

2. Further Litigation Would Involve Risk, Expense, Delay and Burden on Class/Collective Members..... 20

E. The Court Should Grant Final Certification and Collective Action Designation ..... 21

F. The Settlement Administration Fees Should be Approved.....21

**V. CONCLUSION ..... 21**

**TABLE OF AUTHORITIES**

1  
2 *Boyd v. Bechtel Corp.*,  
485 F. Supp. 610 (N.D. Cal. 1979)..... 15, 17, 19

3 *Chun-Hoon v. McKee Foods Corp.*,  
716 F. Supp. 2d 848 (N.D. Cal. 2010)..... 16

4 *City of Detroit v. Grinnell Corp.*,  
495 F.2d 448 (2d Cir. 1974) ..... 19

5 *Class Plaintiffs v. City of Seattle*,  
955 F.2d 1268 (9th Cir. 1992) ..... 2, 14, 15

6 *Eisen v. Carlisle & Jacquelin*,  
417 U.S. 156 (1974) ..... 14

7 *Ellis v. Naval Air Rework Facility*,  
87 F.R.D. 15 (N.D. Cal. 1980) ..... 15, 17

8 *Greko v. Diesel U.S.A., Inc.*,  
2013 WL 1789602 (N.D. Cal. Apr. 26, 2013)..... 20

9 *Hanlon v. Chrysler Corp.*,  
150 F.3d 1011 (9th Cir. 1998) ..... 14, 17, 19

10 *Hughes v. Microsoft Corp.*,  
98 Civ. 1646, 2001 U.S. Dist. LEXIS 5976, at \*20 (W.D. Wash. Mar. 26, 2001) ..... 18

11 *In re Mego Fin. Corp. Sec. Litig.*,  
213 F.3d 454 (8th Cir. 2000) ..... 17

12 *In re Pacific Enters. Sec. Litig.*,  
47 F.3d 373 (9th Cir. 1995) ..... 17

13 *Linney v. Cellular Alaska P’ship*,  
151 F.3d 1234 (9th Cir. 1998) ..... 19

14 *Lynn’s Food Stores, Inc. v. U.S.*,  
679 F.2d 1350 (11th Cir. 1982) ..... 14

15 *M. Berenson Co., Inc. v. Faneuil Hall Marketplace, Inc.*,  
671 F. Supp. 819 (D. Mass. 1987)..... 15

16 *Mandujano v. Basic Vegetable Prods. Inc.*,  
541 F.2d 832 (9th Cir. 1976) ..... 16

17 *Mora v. Harley-Davidson Credit Corp.*,  
2014 WL 29743 (E.D. Cal. Jan. 3, 2014) ..... 20

18 *Mullane v. Central Hanover Bank & Trust Co.*,  
339 U.S. 306 (1950) ..... 14

19 *Nat’l Rural Telecomms. Coop v. DIRECTV, Inc.*,  
221 F.R.D. 523 (C.D. Cal. 2004)..... 16, 19

20 *Officers for Justice v. Civil Serv. Comm’n*,  
688 F.2d 615 (9th Cir. 1982) ..... 14, 15, 19

21 *Ortiz v. Fibreboard Corp.*,  
527 U.S. 815 (1999) ..... 15

22 *Phillips Petrol. Co. v. Shutts*,  
472 U.S. 797 (1985) ..... 14

23 *Rodriguez v. West Publishing Corp.*,  
563 F.3d 948 (9th Cir. 2009) ..... 17

24 *Staton v. Boeing Co.*,  
327 F.3d 938 (9th Cir. 2003) ..... 2, 14

25  
26  
27  
28

1 *Thieriot v. Celtic Ins. Co.*,  
 2011 WL 1522385 (N.D. Cal. April 21, 2011)..... 20

2 *Tijero v. Aaron Bros., Inc.*,  
 2013 WL 6700102 (N.D. Cal. Dec. 19, 2013)..... 18

3 *Torrise v. Tucson Elec. Power Co.*,  
 8 F.3d 1370 (9th Cir. 1993) ..... 15

4

5 Statutes

6 29 U.S.C. § 201 ..... 1, 21

7 29 U.S.C. § 216(b) ..... 8, 9

8 Section 1542 of the California Civil Code..... 11

9 Rules

10 Federal Rule of Civil Procedure 23(e) ..... 14

11 Federal Rules of Civil Procedure, Rule 23 ..... 1, 2, 21

12 Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure..... 21

13 Other Authorities

14 *Manual for Complex Litigation (Third)* § 30.42 (1995) ..... 18

15 *Manual for Complex Litigation, Fourth* ,  
 (Fed. Judicial Center 2004) (“*Manual*”)..... 15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This is a FLSA and common law wage-and-hour hybrid collective/class action. Plaintiffs Adrianna  
4 Jarrett and Mary Ngeth (hereinafter “Plaintiffs”) have settled this litigation for the gross settlement amount  
5 of \$1,100,000 on behalf of approximately 3,983 hourly, non-exempt customer service representatives  
6 engaged by Defendant [24]7.ai, Inc. (hereinafter “Defendant”).

7 In this unopposed Motion, Plaintiffs request entry of an order (1) certifying a class for  
8 settlement purposes under the Federal Rules of Civil Procedure, Rule 23 (hereinafter “Rule 23”) and  
9 certifying a FLSA collective for settlement purposes under 29 U.S.C. § 201, *et seq.* (as defined in the  
10 Parties’ Settlement Agreement (Exh. A)); (2) finally approving the Parties’ Settlement Agreement and  
11 all terms therein; (3) appointing Plaintiffs Adrianna Jarrett and Mary Ngethe as Class Representatives  
12 for the Class/Collective and Plaintiffs’ counsel as Class Counsel; and (4) awarding fees to the third-  
13 party Settlement Administrator Atticus Administration LLC.

14 The Settlement Agreement resolves litigation over Plaintiffs’ and Class Members’ claims that  
15 Defendant violated the Fair Labor Standards Act (“FLSA”) and is subject to breach of contract and  
16 unjust enrichment claims under state common law, by failing to pay Plaintiffs and the Class Members  
17 for off-the-clock work and required overtime. The Settlement Agreement is the product of arms-length  
18 negotiations by experienced counsel, after significant investigation, and recognition of the strengths  
19 and weaknesses of each side’s positions.

20 The \$1,100,000 settlement readily satisfies the Rule 23 standard of being “fair, reasonable, and  
21 adequate.” The Class has responded overwhelmingly favorably to the Settlement. *See* Declaration of  
22 Bryn Bridley (Atticus Administration, LLC) (Exh. C at ¶¶ 9-10). The objection and exclusion period  
23 closed on September 19, 2024. Zero objections were made to the Settlement. Likewise, zero Class  
24 Members submitted opt out request forms. *Id.* The average estimated payment is \$162.35, and the  
25 highest estimated payment is \$1,737.41 (*Id.* at ¶ 11).

26 Furthermore, Class Counsel (who are among the most highly experienced attorneys in the  
27 country handling complex wage and hour class and collective actions) have conducted sufficient  
28



1 discovery to enable them to adequately evaluate the claims and defenses in the action. (Exh. B, Stoops  
 2 Decl. at ¶¶ 39-59). Lastly, the Settlement Agreement is in line with the strength and recoverability of  
 3 Plaintiffs’ claims given the risk, expense, complexity, and likely duration of further litigation. *See*  
 4 *Staton v. Boeing Co.*, 327 F.3d 938, 959 (9th Cir. 2003); *Class Plaintiffs v. City of Seattle*, 955 F.2d  
 5 1268, 1291 (9th Cir. 1992). (A proposed order of Final Approval is attached as Exhibit  
 6 D).

## 7 **II. PROCEDURAL HISTORY OF THE CASE**

### 8 **A. The Proceedings, Pleadings, and Parties**

9 On February 15, 2023, Plaintiffs filed this lawsuit, asserting the following claims:

- 10 ➤ Count I: Failure to Pay Overtime – Collective Action under the Fair Labor Standards Act  
 11 (“FLSA”)
- 12 ➤ Count II: Failure to Pay Wages – Rule 23 Nationwide Class Action for Breach of Contract
- 13 ➤ Count III: Failure to Pay Wages – Rule 23 Nationwide Class Action for Unjust Enrichment  
 14 (pled in the alternative to Count II) (ECF No. 1).

15 In early March 2023 counsel for the Parties exchanged multiple communications and held meet  
 16 and confer conferences concerning Defendant’s claim that Plaintiffs should amend their Complaint to  
 17 remove alleged proprietary business information contained in the Complaint. (Exh. 2, Stoops Decl. at  
 18 ¶ 11). To address Defendant’s concerns, Plaintiffs’ filed their First Amended Complaint (“FAC”) on  
 19 April 18, 2023. [ECF No. 22]. The FCA contains the same claims stated in Plaintiffs’ original  
 20 Complaint. (*Id.* at ¶ 12).

21 On April 18, 2022, Plaintiffs filed their pre-discovery Motion for Conditional Certification and  
 22 Issuance of Court Authorized Notice to FLSA Collective. [ECF No. 21]. Thereafter, the Parties held  
 23 multiple meet and confer conferences to discuss whether Defendant would stipulation to conditional  
 24 certification and issuance of notice to the FLSA Collective. (Exh. 2, Stoops Decl. at ¶ 14).

25 On May 2, 2023, the Defendant filed an answer, which listed 24 affirmative defenses. [ECF  
 26 No. 28].

27 On June 28, 2023, the Parties submitted a Joint Stipulation to Conditional Certification of  
 28 FLSA Collective Action Notice. [ECF No. 40]. The Court rejected certain aspects of the Parties

1 proposed Notice [ECF No. 41], requiring the Parties to file an Amended Joint Stipulation to  
2 Conditional Certification of FLSA Collective Action Notice, along with a modified proposed Notice,  
3 on July 5, 2023. [ECF No. 42]. The Court approved the modified Notice on July 7, 2023. [ECF No.  
4 44]. On August 4, 2023, the FLSA Notice was issued to 3,897 putative FLSA collective members by  
5 professional services provider Atticus Administration, LLC. (Exh. 2, Stoops Decl. at ¶ 19).

6 During the Notice period, counsel for the Parties held multiple meet and confer conferences to  
7 discuss how to proceed with the litigation following the end of the notice period. These conferences  
8 included conversations about the scope of representative discovery, the necessity of issuing subpoenas  
9 to multiple staffing companies to obtain time and pay records for members of the opt-in Collective,  
10 and the potential of exploring resolution for the FLSA opt-in Collective and/or the entire putative  
11 Class. (*Id.* at ¶ 20). Ultimately, the Parties decided to submit the case to mediation following the  
12 conclusion of the FLSA Notice period. (*Id.* at ¶ 21).

13 On August 22, 2023, counsel for Defendant notified Plaintiffs' Counsel that 83 individuals had  
14 been inadvertently omitted from the collective list provided to Atticus Administration, LLC. (*Id.* at ¶  
15 22). On August 29, 2023, the Parties submitted a Joint Stipulation seeking approval to issue notice to  
16 the 83 omitted individuals. [ECF No. 65]. The Court granted that request on August 31, 2023. [ECF  
17 No. 66]. Atticus Administration, LLC, issued notice to the 83 omitted individuals on September 11,  
18 2023. (Exh. B, Stoops Decl. at ¶ 25). At the conclusion of the original and supplemental opt-in  
19 deadlines a total of 848 collective members had affirmatively opted into the case as FLSA party  
20 plaintiffs (out of the 3,980 who were issued notice). (*Id.* at ¶ 26).

21 In an effort to obtain the fact discovery concerning the 848 opt-ins, including information  
22 necessary to analyze their potential damages, Defendant issued subpoenas to 14 different staffing  
23 companies on September 6, 2023. (*Id.* at ¶ 27). The majority of the staffing companies responded to  
24 the subpoenas by way of producing time and pay records for the opt-ins that worked for Defendant  
25 through their agency. One of the staffing companies refused to comply with the subpoena and, instead,  
26 lodged objections. (*Id.* at ¶ 28). The Parties agreed to utilize the pay and time records received by way  
27 of the subpoenas in an effort to determine the amount of potential damages owed to the opt-in  
28

1 collective members and putative Class. (*Id.* at ¶ 29).

2 On April 16, 2024, the Parties attended a private mediation with nationally respected wage and  
3 hour mediator Michael Dickstein of San Francisco. (*Id.* at ¶ 30). After a full day, contentious  
4 mediation, the Parties were able to reach an agreement. A Memorandum of Understanding was  
5 executed the same day, and, over the next few weeks, the Parties negotiated and finalized the long-  
6 form settlement agreement. The Parties filed a Notice of Settlement on April 17, 2024. (ECF No. 83).

7 On June 7, 2024, Plaintiffs filed their Unopposed Motion for Preliminary Approval of Class  
8 and Collective Settlement and other Related Relief (hereinafter the “Preliminary Approval Motion”).  
9 [ECF No. 86]. On June 18, 2024, the Court issued its Order re Supplemental Briefing pursuant to  
10 which it directed the Parties to address certain questions and concerns the Court had concerning the  
11 Parties’ Settlement. [ECF No. 88]. Plaintiffs submitted the requested supplemental briefing on June  
12 25, 2024. [ECF No. 89].

13 On July 11, 2024, the Court heard oral argument on the Preliminary Approval Motion. During  
14 the hearing the Court directed to Parties to make minor modifications to the settlement notice  
15 documents and to report back to the Court concerning the feasibility of tendering Class Member  
16 payments electronically. On July 19, 2024, in compliance with the Court’s direction during the  
17 preliminary approval hearing, Plaintiffs submitted a second supplemental brief in support of the  
18 Preliminary Approval Motion. [ECF No. 93]. On July 22, 2024, the Court entered its Order granting  
19 the Preliminary Approval Motion. [ECF No. 94].

20 **B. Summary of Discovery Conducted Prior to Mediation**

21 Prior to attending mediation, Class Counsel reviewed and analyzed the following materials,  
22 that consisted of hundreds of pages of documents in addition to substantial electronic data:

- 23 a. Information pertaining to the number of Class Members engaged by Defendant during  
24 the statute of limitations period applicable to the case, along with metrics related to rate  
25 of pay; dates of engagement; hours worked per week; total weeks worked; total shifts  
26 worked; average hours worked per week; and percentage of weeks worked that equaled  
27 or exceeded 40 hours.
- 28 b. Data modeling and related statistics identifying off-the-clock work by the Class  
Members;

- 1 c. Voluminous time and pay records;
- 2 d. Time-keeping policies;
- 3 e. Training policies and materials;
- 4 f. Employee handbook;
- 5 g. Developing a survey that was disseminated to the opt-in collective members and
- 6 analyzing the survey results/data; and
- 7 h. Documents provided to counsel by the Plaintiffs. (Exh. 2, Stoops Decl. at ¶ 40).

8 **C. Reasonableness of Settlement**

9 Defendant asserted numerous legal and factual defenses to Plaintiffs' claims and class  
10 certification efforts including, among others, that:

- 11 a. The time Plaintiffs and the Class Members sought compensation for was not  
12 compensable under the Portal-to-Portal Act.
- 13 b. The time Plaintiffs and the Class Members sought compensation for was not  
14 compensable because it was *de minimis*.
- 15 c. Defendant will seek to compel arbitration with respect to at least one-third of the  
16 Collective/Class Members who are subject to individual arbitration agreements and  
17 class waivers.
- 18 d. Defendant did not employ the Class Members and any liability for alleged wage and  
19 hour claims must be borne by the 14 staffing companies.
- 20 e. Defendant maintains written employment policies, which prohibit all off-the-  
21 clock work.
- 22 f. Defendant instructs and requires employees to report any suspected violation of  
23 Defendant's policies prohibiting off-the-clock work.
- 24 g. Defendant will tender Class Members to testify that they did not work off-the-  
25 clock and/or that the alleged off-the-clock work is exaggerated.
- 26 h. The putative Class Members engaged in personal activities at the beginning of their  
27 shifts.
- 28 i. Plaintiffs' allegations regarding the amount of off-the-clock time worked grossly  
overstates how long it takes to perform the tasks he describes.
- j. The putative Class Members will not be able to prove their off-the-clock time because  
no records exist identifying the exact amount of time they spent each shift performing  
the off-the-clock duties.
- k. Plaintiffs and the Class Members were paid for all worked performed.

- 1 l. The pre- and post-shift log-in and log-out activities are not compensable because the  
2 said activities were not integral and indispensable to the Class Members' principal  
3 work activities.
- 4 m. The putative Class Members will not satisfy the commonality and predominance  
5 elements to obtain Rule 23 class certification.
- 6 n. Plaintiffs and the Class Members will not be able to establish that Defendant's alleged  
7 violations were willful.
- 8 o. Plaintiff and the Class Members will not be able to recover liquidated damages. (Exh.  
9 2, Stoops Decl. at ¶ 47).

10 The existence of Defendant's factual and legal arguments weighed on the parties' decision to  
11 resolve the case. While Class Counsel understandably takes issue with the viability of some of these  
12 defenses, the risks associated with the continued litigation of Plaintiffs' wage claims simply cannot  
13 be disregarded in measuring the reasonableness of the settlement. Specifically, settling this case now  
14 saves the parties from years of litigation and tremendous uncertainty as to the ultimate outcome of the  
15 litigation. Should the parties have continued to litigate the case, they would have been faced with no  
16 less than 6 to 12 months of additional formal discovery (individual class member depositions;  
17 interrogatories and requests for production of documents; electronic data production; 30(b)(6)  
18 depositions). Discovery, once completed, would likely be followed by Rule 23 certification motion  
19 practice on Plaintiffs' common law claims, numerous dispositive motions, and eventually one or more  
20 trials. It is very likely that this litigation would extend for another two to three years and cost the  
21 parties \$500,000 to \$1,000,000 (or more) each in attorneys' fees and expenses. (*Id.* at ¶ 48).

22 To evaluate and negotiate settlement and take part in mediation, Class Counsel retained expert  
23 economist Eric Lietzow of Desmond, Marcello & Amster, LLP. (*Id.* at ¶ 49).

24 In their complaint, Plaintiffs estimated a maximum of fourteen (14) to fifteen (27) minutes of  
25 off-the-clock work per day associated with the pre-, mid- and post-shift log-in and log-out activities.  
26 However, Defendant insisted that these estimations are grossly inflated, that most of the Class  
27 Members do not perform substantial, if any, off-the-clock work, and that the alleged time is not  
28 compensable under the Portal-to-Portal Act and the *de minimis* doctrine. (*Id.* at ¶ 52). Affording due  
consideration to the facts of the case and Defendant's evidence, Class Counsel determined that  
reasonable estimation of the actual maximum damages equals six (6) to eight (8) minutes per day. (*Id.*

1 at ¶ 53).

2 Utilizing the six (6) to eight (8) minute per day estimation – and extrapolating the timekeeping  
3 and pay record mediation data to extend from February 2020 (three years prior to Complaint filing)  
4 through April 16, 2024 (date of mediation) – Class Counsel and the expert economist developed a  
5 time consuming and complicated damage analysis of all claims and calculated the Defendant’s  
6 maximum exposure for all claims (including overtime wages, gap time damages for straight time  
7 wages, and liquidated damages on all unpaid overtime wages) fell in the range of \$1,409,303 to  
8 \$1,891,147. (*Id.* at ¶ 54). Based on the damage analysis conducted by Class Counsel and their damages  
9 expert, and in light of the factual and legal defenses identified above, the \$1,100,000 settlement  
10 equates to 58.17% to 78.05% of Defendant’s \$1,409,303 to \$1,891,147 maximum damage exposure.  
11 (*Id.* at ¶ 55).

### 12 **III. SETTLEMENT TERMS**

13 The Settlement Agreement provides as follows:

#### 14 **A. Value of the Settlement to the Class**

15 The settlement provides for a non-reversionary Gross Settlement Amount of \$1,100,000.  
16 (Exh.A, at ¶2). The Net Settlement Amount means the Gross Settlement Amount minus Class  
17 Counsel’s attorneys’ fees and litigation expenses, the settlement administration costs, and the Plaintiff  
18 incentive awards. (*Id.* at ¶ 2(u)). The anticipated Net Settlement Amount is approximately \$643,370,  
19 based on the following deductions from the \$1,100,000 Gross Settlement Amount: \$5,000 to each of  
20 the Named Plaintiffs for incentive awards; \$40,000 for settlement administration fees; \$366,630 for  
21 attorneys’ fees (33.33% of the Gross Settlement Amount); and up to \$40,000 in litigation expenses.  
22 (*Id.* at ¶ 18(a-d)).

23 The Net Settlement Amount shall be split into two buckets: 1) the “FLSA Settlement  
24 Payment” bucket, which shall consist of 75% of the Net Settlement Amount; and 2) the “Rule 23  
25 Settlement Payment” bucket, which shall consist of 25% of the Net Settlement Amount. (*Id.* at ¶  
26 18(e)). After splitting the into the “FLSA Settlement Payment” bucket and the “Rule 23 Settlement  
27 Payment” bucket, Individual FLSA and Rule 23 Settlement Payments will be calculated from the  
28

1 amounts in each bucket as follows:

- 2 1. The Settlement Administrator will use the number of Workweek(s) worked by  
3 Settlement Class Members during the Class Period, which will be determined based on  
4 the information in the Class List Defendant provides to the Settlement Administrator.
- 5 2. Each of the Settlement Class Members is eligible to receive a *pro rata* share of the  
6 FLSA Settlement Payment bucket and the Rule 23 Settlement Payment bucket based  
7 on their share of the total number of Workweeks during the Class Period.
- 8 3. The value of a single Workweek during the Class Period shall be determined by  
9 dividing the FLSA Settlement Payment bucket and the Rule 23 Settlement Payment  
10 bucket by the total number of Workweeks during the Class Period worked by all  
11 Settlement Class Members. Each Settlement Class Member shall be allocated a gross  
12 payment equal to their individual Workweeks during the Class Period multiplied by the  
13 value of a single Workweek during the Class Period.
- 14 4. The individual FLSA Settlement Payments and Rule 23 Settlement Payments  
15 (collectively, Individual Settlement Payments) shall be allocated as follows: (i) fifty  
16 percent (50%) of each Settlement Class Member's Individual Settlement Payments will  
17 be allocated to settlement of wage claims (the "Wage Portions"); and (ii) the remaining  
18 fifty percent (50%) will be allocated to liquidated damages, penalties and interest. The  
19 Settlement Administrator will withhold the Settlement Class Members' share of taxes  
20 and withholdings with respect to the wage portion of the Individual Settlement  
21 Payments, and issue checks to Settlement Class Members for their net of the FLSA  
22 Settlement Payment and Rule 23 Settlement Payment, provided that no Settlement  
23 Class Member shall receive an Individual Settlement Payment of less than Twenty  
24 Dollars and Zero Cents (\$20.00). The wage Portions are subject to tax withholding and  
25 will be reported on an IRS W-2 Form. The portion allocated to liquidated damages,  
26 penalties and interest (i.e., Non-Wage Portions) are not subject to wage withholdings  
and will be reported in IRS 1099 Forms (if required). (*Id.* at ¶ 18(e), 19(a)).

18 **B. Size of the Class/Collective and Class Definition**

19 Under the Settlement Agreement, "Class Members" are defined as:

20 (i) all non-exempt customer service representatives ("CSRs") engaged by Defendant  
21 during the Class Period,<sup>1</sup> as follows: (i) the 848 non-exempt CSRs, including Plaintiffs,  
22 who joined this Action by submitting opt-in consent forms (available at Dkt. Nos. 1-3;  
23 1-4; 50-1; 51-1' 52-1; 53-1; 54-1; 55-1; 56-1; 57-1; 58-1; 59-1; 60-1; 61-1; 62-1; 63-1;  
64-1; 67-1; 68-1; 70-1; 71-1; 72-1; 73-1; 74-1; 75-1; 76-1) following Court approval  
24 of pre-discovery conditional certification in this Action pursuant to 29 U.S.C. § 216(b)  
25 ("Collective Opt-in(s)"); and (ii) all non-exempt CSRs who were engaged by  
26 Defendant during the Class Period (estimated at 3,133 individuals by the Parties) but  
who did not submit opt-in consent forms during the pre-discovery conditional  
certification period. ("Rule 23 Member(s)"). (*Id.* at ¶ 2(e)).

27 <sup>1</sup> Class Period as defined in the Settlement Agreement "shall be February 15, 2020, through the date  
28 the Court grants Preliminary Approval of this Agreement or 60 calendar days from April 16, 2024  
(whichever date is earlier). (*Id.* at ¶ 2(i)).



1 Further, “Settlement Class Members” are defined as:

2 (i) the Collective Opt-Ins (*i.e.*, the 848 non-exempt CSRs, including Plaintiffs, who  
3 joined this Action by submitting opt-in consent forms (available at Dkt. Nos. 1-3; 1-4;  
4 50-1; 51-1; 52-1; 53-1; 54-1; 55-1; 56-1; 57-1; 58-1; 59-1; 60-1; 61-1; 62-1; 63-1; 64-  
5 1; 67-1; 68-1; 70-1; 71-1; 72-1; 73-1; 74-1; 75-1; 76-1) following Court approval of  
6 pre-discovery conditional certification in this Action pursuant to 29 U.S.C. § 216(b));  
7 and (ii) the 3,133 non-exempt CSRs who were engaged by Defendant during the Class  
8 Period who do not timely file Opt Out Requests and consent to the terms of the  
9 Settlement by negotiating checks in the gross amount of their Individual Settlement  
10 Payments. (*Id.* at ¶ 2(ii)).

11 **C. Nature of Payments, Released Claims and Released Parties**

12 This is a common fund settlement with no reversion, and every Class Member will be sent  
13 Individual Settlement Payments. (*Id.* at ¶ 23). Specifically, each Class Member will receive an  
14 Individual Settlement Payment equaling their pro-rata share of the FLSA Settlement Payment bucket  
15 and an Individual Settlement Payment equaling their pro-rata share of the Rule 23 Settlement Payment  
16 bucket. (*Id.* at ¶ 18(e)(ii)). Individual Settlement Payment Checks will be valid for 180 calendar days.  
17 (*Id.* at ¶ 25(f)). Funds from checks that are not negotiated within the 180-day period will be transmitted  
18 to *cy pres* designee: Bay Area Legal Aid (or such other *cy pres* designee as ordered by the Court).  
19 (*Id.*).

20 The Settlement Agreement defines the following releases:

21 “Settled FLSA Claims” means and any and claims, actions, demands, causes of action,  
22 suits, debts, obligations, damages, rights or liabilities, of any nature and description  
23 whatsoever, whether known or unknown, that arise during the Class Period and that are  
24 based on or are reasonably related to claims for unpaid wages (including but not limited  
25 to claims for regular wage, overtime and gap time) under the FLSA. Settled FLSA  
26 claims exclude claims that are: (i) not based on or reasonably related to the claims  
27 asserted in the Action; and/or (ii) expressly non-waivable under the law, including  
28 claims for retaliation, wrongful termination, unemployment, disability, worker’s  
compensation; and/or (iii) outside of the Class Period. (*Id.* at ¶ 2(gg)).

“Settled Rule 23 Class Claims” means and any and claims, actions, demands, causes of  
action, suits, debts, obligations, damages, rights or liabilities, of any nature and  
description whatsoever, whether known or unknown, that arise during the Class Period  
and that are based on or are reasonably related to claims under applicable state and  
common law wage theories (including but not limited to claims for breach of contract  
and/or unjust enrichment). Settled Rule 23 Class claims exclude claims that are: (i) not  
based on or reasonably related to the claims asserted in the Action; and/or (ii) expressly  
non-waivable under the law, including claims for retaliation, wrongful termination,  
unemployment, disability, worker’s compensation; and/or (iii) outside of the Class  
Period. (*Id.* at ¶ 2(hh)).



1 As of the Effective Date<sup>2</sup> and full funding of the Gross Settlement Amount, all Settlement  
 2 Class Members shall be deemed to have fully, finally, and forever released, settled, compromised,  
 3 relinquished, and discharged any and all Settled FLSA Claims and Settled Rule 23 Class Claims during  
 4 the Class Period against any and all Released Parties. (*Id.* at ¶ 11). The Released Parties shall mean  
 5 Defendant [24]7.ai, Inc. and each of its parent companies, subsidiaries, affiliates, assigns,  
 6 predecessors, successors, owners (whether managers, partners, shareholders), directors, employees  
 7 (current and former), board members and agents. (*Id.* at ¶ 2(cc)).

9 The checks issued to Class Members for their Individual Settlement Payments will include the  
 10 following release language:

11 Release Language on FLSA Claim Settlement Checks. The Settlement Administrator shall  
 12 include the following release language on the back of each FLSA Claim settlement check, as  
 13 appropriate:

- 14 a. For Collective Opt-Ins: “This check is your FLSA settlement payment in connection  
 15 with the court-approved collective and class action Settlement in the case entitled  
 16 *Jarrett et al v. [24]7.ai, Inc.*, Case No. 23-cv-00677-EMC, pending in the United  
 17 States District Court, Northern District of California (the “Action”). You previously  
 18 submitted a consent to join form and affirmatively joined the action as a FLSA opt-in.  
 By signing or cashing your check, you acknowledge that you are participating in the  
 Settlement and that you are releasing the Settled FLSA Claims against the Released  
 Parties (as those terms are defined in the Class Notice).” (*Id.* at ¶ 15(a)).
- 19 b. For Rule 23 Members: “This check is your FLSA settlement payment in connection  
 20 with the court-approved collective and class action Settlement in the case entitled  
 21 *Jarrett et al v. [24]7.ai, Inc.*, Case No. 23-cv-00677-EMC, pending in the United  
 22 States District Court, Northern District of California, (the “Action”). By signing or  
 23 cashing this check, you are consenting to join the Action and are fully, finally, and  
 forever releasing, settling, compromising, relinquishing, and discharging the Released  
 Parties from any and all claims, actions, demands, causes of action, suits, debts,  
 obligations, damages, rights or liabilities, of any nature and description whatsoever,  
 whether known or unknown, that arise during the period of February 15, 2020 through

24 \_\_\_\_\_  
 25 <sup>2</sup> “Effective Date” as defined in the Settlement Agreement “means 1) if there are no objections to the  
 26 Settlement, the first business day following the last of the following occurrences: (i) the date the Court  
 27 enters the Final Approval Order and Judgment; (ii) if there is an objection, but no appeal is taken from  
 28 the Final Approval Order and Judgment, thirty-one (31) calendar days after the Court enters the Final  
 Approval Order and Judgment; or (iii) if an appeal is taken from the Final Approval Order and  
 Judgment, then the date of final resolution of that appeal (including any requests for rehearing and/or  
 petitions for certiorari), resulting in final and complete judicial approval of this Agreement in its  
 entirety, with no further challenge to the Agreement being possible.” (*Id.* at ¶ 2(m)).

1 the date the Court grants Preliminary Approval of the Settlement or 60 calendar days  
2 from April 16, 2024 (whichever date is earlier), and that are based on or are reasonably  
3 related to claims for unpaid wages (including but not limited to claims for regular  
4 wages, overtime, and gap time) under the FLSA. By signing or cashing your check,  
5 you acknowledge that you have read the Class Notice, that you consent to join the  
6 Action as a FLSA opt-in and participate in the Settlement, and that you are releasing  
7 the Settled FLSA Claims against the Released Parties (as those terms are defined in  
8 the Class Notice).” (*Id.* at ¶ 15(b)).

9 Release Language on Rule 23 Settlement Checks. The Settlement Administrator shall include  
10 the following release language on the back of each Rule 23 Settlement check:

11 “This check is your Rule 23 settlement payment in connection with the court-approved  
12 collective and class action Settlement in the case entitled *Jarrett et al v. [24]7.ai, Inc.*, Case  
13 No. 23-cv-00677-EMC, pending in the United States District Court, Northern District of  
14 California, (the “Action”). By signing or cashing this check, you are fully, finally, and forever  
15 releasing, settling, compromising, relinquishing, and discharging the Released Parties from any  
16 and all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or  
17 liabilities, of any nature and description whatsoever, whether known or unknown, that arise  
18 during the period of February 15, 2020 through the date the Court grants Preliminary Approval  
19 of the Settlement or 60 calendar days from April 16, 2024 (whichever date is earlier), and that  
20 are based on or are reasonably related to claims under applicable state and common law wage  
21 theories (including but not limited to claims for breach of contract and/or unjust enrichment).  
22 By signing or cashing your check, you acknowledge that you have read the Class Notice, that  
23 you consent to participate in the Settlement, and that you are releasing the Settled Rule 23 Class  
24 Claims against the Released Parties (as those terms are defined in the Class Notice).” (*Id.* at ¶  
25 15(c)).

26 The Named Plaintiffs will provide a general release, including a waiver of the provisions of  
27 Section 1542 of the California Civil Code. (*Id.* at ¶ 12).

#### 28 **D. Notice, Opt Out and Objection Periods**

Class Members shall have forty-five (45) calendar days from the mailing of the Class Notice  
to submit and Opt Out Request Form or to file an Objection to the Settlement. (*Id.* at ¶ 2(v-x)). Any  
Class Members who have their Class Notice(s) remailed will have an additional fourteen (14) calendar  
days beyond the Objection Period to file an Opt Out Request Form or Objection. (*Id.* at ¶ 2(w)). Each  
Objection (i.e., an objection to the Settlement that a Rule 23 Member submits in writing to the  
Settlement Administrator) must: (i) contain the name and case number of the Action; (ii) contain the  
full name, address, and telephone number of the objecting Rule 23 Member; (iii) be signed by the Rule  
23 Member; (iv) contain a written statement of all grounds for the Objection accompanied by any legal  
support for such Objection; (v) contain copies of any papers, briefs, or other documents upon which

1 the Objection is based; and (vi) be emailed, postmarked or fax stamped on or before the Objection  
2 Period and returned to the Settlement Administrator at the email address, mailing address and/or fax  
3 number specified in the Class Notice. (*Id.* at ¶ 2(v)). Each Opt Out Request (i.e., a request by a Rule  
4 23 Member to be excluded from the Settlement) must: (i) contain the name and case number of the  
5 Action; (ii) contain the full name, address, and telephone number of the Rule 23 Member requesting  
6 exclusion from the Settlement; (iii) be signed by the Rule 23 Member; (iv) contain a clear written  
7 statement indicating that the Rule 23 Member seeks exclusion from the Settlement; and (v) be emailed,  
8 postmarked or fax stamped on or before the Objection Period and returned to the Settlement  
9 Administrator at the email address, mailing address or fax number specified in the Class Notice.

10 **E. Attorneys' Fees, Litigation Expenses, Service Awards and Settlement Administration**

11 From the Gross Settlement Amount, \$366,630 (33.33% of the Gross Settlement Amount) shall be  
12 allocated to Class Counsel for their attorneys' fees. (*Id.* at ¶ 18(a)). Additionally, Class Counsel may seek  
13 reimbursement of litigation expenses which are estimated to be no more than \$40,000 by the conclusion  
14 of the Settlement. (*Id.* at ¶ 18(b)).

15 For their assistance in obtaining relief for the Class, the Named Plaintiffs (Adrianna Jarrett and  
16 Mary Ngethe) may seek incentive awards in the amount of \$5,000 each. (*Id.* at ¶ 18(d)). Finally, the  
17 Settlement Agreement allocates up to \$40,000 for settlement administration fees (*Id.* at ¶ 18(c))., but the  
18 bid accepted for the administration of the settlement was \$36,744. (Exh. B, Stoops Decl. at ¶ 61).

19 **F. Notice Procedures**

20 Within fourteen (14) calendar days after the date that the Court grants preliminary approval of  
21 the Settlement, Defendant shall provide to the Administrator a list of all Class Members ("Class List")  
22 and all information necessary to locate Class Members, process payments, and process claims for  
23 payments, including, but not limited to, Class Member workweeks or dates of engagement, last known  
24 addresses, last known email addresses, social security numbers, and any other information required to  
25 effectuate the Agreement. (Exh. A, at ¶ 2(g), 22(a)). Within fourteen (14) calendar days of receiving  
26 the Class List, Administrator shall mail and distribute to all Class Members a notice of this settlement  
27 informing them of the basic information regarding its terms, how to submit objections, how to exclude  
28

1 themselves from this proposed settlement, their estimated Individual Settlement Payments, how to  
2 dispute the allocated number of workweeks, and the date for a final approval hearing (the “Class  
3 Notice,” in a form substantially similar to that attached the Agreement as Exhibit A). (*Id.* at ¶22 (c)).

#### 4 **G. Issuance of Notice and Class Member Reaction**

5 The procedures for giving notice to the Class/Collective Members, as set forth in the Settlement  
6 Agreement and ordered in the Preliminary Approval Order [ECF No. 94], have been properly  
7 followed. (Exh. B, Stoops Decl. at ¶ 62). On August 5, 2024, the Settlement Administrator issued  
8 notice to each of the 3,981 Class Members. (Exh. C, Bridley Decl. at ¶ 5).

9 The notice, class member information sheets, and opt out request forms contained detailed  
10 information about the lawsuit, including the total amount of the settlement, the method by which the  
11 settlement funds would be allocated among the Class Members, and procedures for opting out from  
12 the Settlement and objecting to the Settlement. The Notice also provided contact information for Class  
13 Counsel and the Settlement Administrator.

14 The Settlement Administrator followed accepted best practices to ensure that the notice  
15 reached as many Class Members as feasible. (*Id.* at ¶¶ 5-8). The Settlement Administrator  
16 disseminated the Court-approved notice to all Class Members by first class mail for whom a mailing  
17 address was available (3,725), using the National Change of Address (“NCOA”) database to verify  
18 the accuracy of all addresses prior to sending the Notices. (*Id.*). The Settlement Administrator also  
19 ran traces on the addresses of any returned Notices to again search for an updated address. (*Id.*). The  
20 remaining 285 Class Members were issued notice by e-mail. (*Id.*).

21 The reaction to the Settlement was overwhelmingly positive. As of the September 19, 2024  
22 conclusion of the objection and opt out period, zero Class Members had submitted objections or opt  
23 out request forms. (*Id.* at ¶ 10).

#### 24 **IV. ARGUMENT IN SUPPORT OF FINAL APPROVAL**

##### 25 **A. The Best Practicable Notice of Settlement Has Been Provided to the Class/Collective.**

26 The mailing of the Notice and corresponding forms to the Class Members, and the general  
27 administration of the notice process as described above, meets the requirements for the “best  
28

1 practicable” notice in this case as necessary to protect the due process rights of Class Members. *See*  
2 *e.g.*, *Phillips Petrol. Co. v. Shutts*, 472 U.S. 797, 811-12 (1985) (provision of “best practicable” notice  
3 with description of the litigation and explanation of opt-out rights satisfies due process); *Eisen v.*  
4 *Carlisle & Jacquelin*, 417 U.S. 156, 174-75 (1974) (individual notice must be sent to class members  
5 who can be identified through reasonable means); *Mullane v. Central Hanover Bank & Trust Co.*, 339  
6 U.S. 306, 314 (1950) (best practicable notice is that which is “reasonably calculated, under all the  
7 circumstances, to apprise interested Parties of the pendency of the action and afford them an  
8 opportunity to present their objections”). Therefore, the Court may proceed to determine the fairness  
9 and adequacy of the Agreement, and order its approval, secure in the knowledge that all absent Class  
10 Members have been given the opportunity to participate fully in the opt out, objection, and approval  
11 process.

12 **B. Final Approval Standards Under Rule 23 and the FLSA.**

13 “[V]oluntary conciliation and settlement are the preferred means of dispute resolution,”  
14 especially in complex class actions. *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th  
15 Cir. 1982). Class action lawsuits readily lend themselves to compromise because of the difficulties of  
16 proof, the uncertainties of the outcome, and the typical length of the litigation. *Class Plaintiffs*, 955  
17 F.2d at 1276 (noting that “strong judicial policy [. . .] favors settlements, particularly where complex  
18 class action litigation is concerned”). On a motion for final approval of a class action settlement under  
19 Federal Rule of Civil Procedure 23(e), a court’s inquiry is whether the settlement is “fair, adequate  
20 and reasonable,” recognizing that “it is the settlement taken as a whole, rather than the individual  
21 component parts, that must be examined for overall fairness.” *Staton*, 327 F.3d at 952 (quoting  
22 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998)).

23 Similarly, under the FLSA, a settlement that results in waiver of FLSA claims should be  
24 approved where it is “entered as part of a stipulated judgment approved by the court after scrutinizing  
25 the settlement for fairness.” *Lynn’s Food Stores, Inc. v. U.S.*, 679 F.2d 1350, 1352-53 (11th Cir. 1982).  
26 A settlement is fair, adequate and reasonable, and therefore merits final approval, when “the interests  
27  
28

1 of the class are better served by the settlement than by further litigation.” *Manual for Complex*  
2 *Litigation, Fourth* (Fed. Judicial Center 2004) (“*Manual*”), § 21.6 at 309.

3 When determining whether to grant final approval, “the court’s intrusion upon what is  
4 otherwise a private consensual agreement negotiated between the Parties to a lawsuit must be limited  
5 to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or  
6 overreaching by, or collusion between, the negotiating Parties, and that the settlement, taken as a  
7 whole, is fair, reasonable and adequate to all concerned.” *Officers for Justice*, 688 F.2d at 625. The  
8 court should balance “the strength of plaintiffs’ case; the risk, expense, complexity, and likely duration  
9 of further litigation; the risk of maintaining class action status throughout the trial; the amount offered  
10 in settlement; the extent of discovery completed, and the state of the proceedings; the experience and  
11 views of counsel [ . . . ] and the reaction of the class to the proposed settlement.” *Class Plaintiffs*, 955  
12 F.2d at 1291; *accord Torrissi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375 (9th Cir. 1993). “The  
13 recommendations of Plaintiffs’ counsel should be given a presumption of reasonableness.” *Boyd v.*  
14 *Bechtel Corp.*, 485 F. Supp. 610, 622 (N.D. Cal. 1979); *Ellis v. Naval Air Rework Facility*, 87 F.R.D.  
15 15, 18 (N.D. Cal. 1980) (“[T]he fact that experienced counsel involved in the case approved the  
16 settlement after hard-fought negotiations is entitled to considerable weight.”).

17 **C. The Settlement Agreement is Presumptively Fair Because No Class Collective**  
18 **Members Have Objected to the Settlement, the Significant Discovery Conducted,**  
19 **Class Counsel’s Experience, and Arms-Length Negotiation.**

20 The Court should begin its analysis with a presumption that the Agreement is fair and should  
21 be approved, due to (1) the existence of zero Class Member objections to the Settlement (bolstered  
22 further by zero opt out requests), (2) the meaningful discovery conducted, (3) Class Counsel’s  
23 significant experience in this kind of litigation, and (4) the arms-length negotiations before an  
24 experienced mediator. *See Ortiz v. Fibreboard Corp.*, 527 U.S. 815, 852 (1999) (holding that arms-  
25 length negotiations conducted by competent counsel after appropriate discovery are *prima-facie*  
26 evidence that the settlement is fair and reasonable); *M. Berenson Co., Inc. v. Faneuil Hall*  
27 *Marketplace, Inc.*, 671 F. Supp. 819, 822 (D. Mass. 1987) (“Where, as here, a proposed class  
28



1 settlement has been reached after meaningful discovery, after arm’s length negotiation, conducted by  
2 capable counsel, it is presumptively fair.”). These factors are well satisfied here.

3 *First*, zero objections were made to the Agreement and the objection period closed September  
4 19, 2022. (Exh. C, Bridley Decl. at ¶ 10). Likewise, zero Class Members submitted opt out request  
5 forms. (*Id.*).

6 *Second*, as discussed above, the Parties engaged in substantial discovery and a significant  
7 exchange of relevant information and data in advance of the Parties’ mediation. *Supra* at pp. 4-7. As  
8 a result of these efforts, Class Counsel had sufficient information to evaluate the strengths and  
9 weaknesses of the Class/Collective claims and defenses, whether to pursue litigation or settle, and the  
10 appropriate settlement value for the claims at issue.

11 *Third*, Class Counsel are highly experienced in wage and hour class action litigation. (Exh. B,  
12 Stoops Decl. at ¶¶ 3-7).

13 *Finally*, the Settlement was reached only after participating in arms-length, good-faith  
14 negotiations under the supervision of esteemed wage and hour mediator, Michael Dickstein. The case  
15 has been zealously litigated by both sides. There are no indicia of collusion.

16 For all these reasons, a presumption is appropriate that the class relief in the Agreement is fair.

### 17 **1. Zero Objections and Zero Opt Outs**

18 As of the date the objection period closed, September 19, 2024, zero objections were made  
19 despite the notice going to 3.983 Class Members. Even in cases where objections are made it is  
20 recognized that a small number of objections indicates a favorable class reaction. *See Nat’l Rural*  
21 *Telecomms. Coop v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004) (holding that “in the  
22 absence of a large number of objections to a proposed class action settlement, settlement actions are  
23 favorable to the class members.”); *see also Mandujano v. Basic Vegetable Prods. Inc.*, 541 F.2d 832,  
24 837 (9th Cir. 1976).

25 Moreover, zero Class Members opted out of the Settlement. This overwhelmingly positive  
26 reaction of the Class strongly supports final approval of the Agreement. *See Chun-Hoon v. McKee*  
27 *Foods Corp.*, 716 F. Supp. 2d 848, 850 (N.D. Cal. 2010) (granting final approval where 16 of 329  
28

1 class members opted out, explaining that where exclusions and opt-outs are low, there is a presumption  
2 of a favorable class reaction).

### 3 **2. The Parties Engaged in Substantial Investigation and Analysis** 4 **of the Legal Issues**

5 Class Counsel have engaged in extensive investigation of the claims in this case and the Parties  
6 engaged in significant discovery. Prior to the mediation process, both parties researched their claims and  
7 defenses in order to appropriately evaluate the strengths and weaknesses of their respective cases and did  
8 so in view of the comprehensive class-wide (albeit informal) discovery addressed above. (Exh. B, Stoops  
9 Decl. at ¶¶ 39-42, 46-55). Prior to and during the mediation, Defendant also voluntarily provided class  
10 data and information which permitted an objective assessment of Defendant's potential liability exposure.  
11 Further, Class Counsel, along with Desmond, Marcello & Amster, P.C., analyzed detailed,  
12 individualized class/collective member payroll and time record data to prepare a comprehensive  
13 damage analysis. (*Id.*).

14 Ultimately, both parties carefully weighed the risks and benefits of resolving the case in  
15 comparison to proceeding with the motion for class certification and summary judgment, and, potentially,  
16 before the Ninth Circuit. The parties concluded that the settlement terms were acceptable and the benefits  
17 of settling outweighed the risks of further litigation.

18 In summary, the Parties engaged in substantial investigation and analysis of the legal issues in  
19 reaching a Settlement in this case. *Cf. In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (8th Cir.  
20 2000) (emphasizing that the touch stone of the analysis is whether "the parties have sufficient  
21 information to make an informed decision about settlement," including formal and informal  
22 discovery).

### 23 **3. The Recommendations of Experienced Counsel Favor Approval** 24 **of the Settlement Agreement**

25 The judgment of experienced counsel regarding the settlement is entitled to great weight.  
26 *Hanlon*, 150 F.3d at 1026; *Boyd*, 485 F. Supp. at 622; *Ellis*, 87 F.R.D. at 18. Reliance on such  
27 recommendations is premised on the fact that "parties represented by competent counsel are better  
28 positioned than courts to produce a settlement that fairly reflects each party's expected outcome in  
litigation." *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 967 (9th Cir. 2009) (*quoting In re*



1 *Pacific Enters. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995)).

2 Class Counsel has practiced law for many years, has focused its practice on wage and hour class  
3 actions, and has been appointed class counsel or co-class counsel in scores of class actions, obtaining  
4 substantial recoveries for hundreds of thousands of employees. Similarly, Defendant is represented by  
5 Spencer Fane LLP, a well-known employment defense firm, and defense counsel are well-versed in  
6 litigating wage and hour class actions. The parties and counsel believe the Settlement is fair and  
7 appropriate given all factors involved.

8 The fact that qualified and well-informed counsel endorse the Agreement as being fair,  
9 reasonable, and adequate heavily favors this Court's approval of the Agreement.

#### 10 **4. The Parties Participated in Arms-Length Negotiations Before 11 an Experienced Neutral Mediator**

12 As set forth above, a settlement is presumed fair if it was negotiated at arm's length by  
13 experienced, competent counsel equipped with enough information to act intelligently. *See Tijero v.*  
14 *Aaron Bros., Inc.*, 2013 WL 6700102, at \*7 (N.D. Cal. Dec. 19, 2013) (where settlement reached after  
15 parties participated in private mediation, settlement was appropriate for final approval); *Hughes v.*  
16 *Microsoft Corp.*, No. 98 Civ. 1646, 2001 U.S. Dist. LEXIS 5976, at \*20 (W.D. Wash. Mar. 26, 2001)  
17 ("A presumption of correctness is said to attach to a class settlement reached in arms-length  
18 negotiations between experienced capable counsel after meaningful discovery.") (citing *Manual for*  
19 *Complex Litigation (Third)* § 30.42 (1995)).

20 The parties engaged in a day-long mediation with esteemed wage and hour mediator Michael  
21 Dickstein. Before the mediation, the Parties submitted extensive mediation briefing, including detailed  
22 data analyses and assessments, and substantial evidence. Following the mediation, the Parties  
23 negotiated the long-form Settlement Agreement over a period of several weeks.

#### 24 **D. The Settlement Agreement Provides Substantial, Certain Benefits and Avoids the 25 Risk, Cost, Delay and Burden of Further Litigation.**

##### 26 **1. The Value of the Settlement Favors Final Approval**

27 The value of the Settlement – \$1,100,000 – is an excellent result, and the Settlement compares  
28 favorably to other similar class/collective action wage and hour settlements. This is especially true in

1 light of the defenses raised by Defendant including defenses relating to: compensability of the alleged  
2 off-the-clock time; amount of off-the-clock time worked; whether the alleged work time was *de*  
3 *minimis*; the fact that a large portion of the Class Members were subject to arbitration agreements; and  
4 the propriety of class and collective certification. (Exh. B, Stoops Decl. at ¶ 47). Plaintiffs faced the  
5 very real possibility that if they proceeded to trial, they might obtain little if any recovery for the Class.

6 The Settlement is substantial, especially as its adequacy must be judged as “a yielding of  
7 absolutes and an abandoning of highest hopes [. . .] Naturally, the agreement reached normally  
8 embodies a compromise; in exchange for the saving of cost and elimination of risk, the Parties each  
9 give up something they might have won had they proceeded with litigation[.]” *Officers for Justice*,  
10 688 F.2d at 624 (citation omitted). Accordingly, the Settlement is not to be judged against a speculative  
11 measure of what might have been achieved. *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1242  
12 (9th Cir. 1998). In the end, “[s]ettlement is the offspring of compromise; the question we address is  
13 not whether the final product could be prettier, smarter or snazzier, but whether it is fair, adequate and  
14 free from collusion.” *Hanlon*, 150 F.3d at 1027. In addition, the Court should consider that the  
15 Settlement provides for payment to the Class now, rather than a speculative payment many years down  
16 the road. *See City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974).

17 Based upon the evidence obtained and the figures above, Defendant’s realistic maximum  
18 damage exposure in this case fell in a range of \$1,409,303 to \$1,891,147. (Exh. B, Stoops Decl. at ¶  
19 54). Accordingly, the \$1,100,000 Gross Settlement Amount provides the Class Members 58.17% to  
20 78.05% of their maximum damages. (*Id.* at ¶ 55).

21 Courts in the Ninth Circuit have observed that: “simply because a settlement may amount to only  
22 a fraction of the potential recovery does not in itself render it unfair or inadequate. Compromise is the  
23 very nature of settlement.” *Boyd v. Bechtel Corp.*, 485 F. Supp. 610, 624 (N.D. Cal. 1979); *see also Nat’l*  
24 *Rural Telecomm. Coop. v. DirecTV, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) (it is “well settled law  
25 that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential  
26 recovery”). The Settlement here is significantly more than a “fraction” and provides a recovery  
27 commensurate with the associated risk factors involved in the case.

1 Finally, the average estimated payment to the Class Members is \$162.35 and the highest  
2 estimated payment is \$1,737.41. (Exh. C, Bridley Decl. at ¶ 11).

3 Certainly, there can be no question that the Settlement is substantial and provides a significant  
4 benefit to the Class Members.

## 5 **2. Further Litigation Would Involve Risk, Expense, Delay and** 6 **Burden on Class/Collective Members**

7 When a party continues to deny liability, there is an inherent risk in continuing litigation. In  
8 *Thieriot v. Celtic Ins. Co.*, 2011 WL 1522385 at \*5 (N.D. Cal. April 21, 2011), the district court  
9 approved a settlement agreement in which the defendant specifically denied liability, noting that such  
10 denial of liability illustrated the risk to continued litigation. *See also Mora v. Harley-Davidson Credit*  
11 *Corp.*, 2014 WL 29743 at \*4 (E.D. Cal. Jan. 3, 2014) (granting final approval to settlement agreement  
12 where defendant denied any liability); *Cf. Greko v. Diesel U.S.A., Inc.*, 2013 WL 1789602 at \*4 (N.D.  
13 Cal. Apr. 26, 2013) (“[E]ven with a strong case, litigation entails expense.”).

14 Similarly, here, Defendant continues to contest liability and the propriety of collective and  
15 class certification. Defendant’s absolute denial of liability, paired with its diligent efforts to prevent  
16 collective and class treatment, spotlight the risks of continued litigation and favor granting final  
17 approval to the proposed Agreement.

18 Moreover, this Rule 23 Class and FLSA Collective involves intricate legal and factual  
19 questions under federal and state law. Litigating these complex claims would require substantial  
20 additional discovery and further pre-trial motions (including motions for certification and  
21 decertification), as well as the consideration, preparation, and presentation of voluminous  
22 documentary and testimonial evidence. Trial itself would require the use of expert witnesses at the  
23 damages phase, and would involve numerous complex legal and factual issues. Once liability had been  
24 established on a class-wide basis, Class/Collective Members might be required to testify at individual  
25 damages mini-trials. As is typical with any case, but especially so with class actions, appeals would  
26 probably follow, with the result that payments to Class/Collective Members, if any, would likely occur  
27 only after several years of delay. In contrast, the Agreement will yield a prompt, certain, and  
28 substantial recovery for the Class/Collective Members. Such a result benefits the Parties and the court

1 system.

2 **E. The Court Should Grant Final Certification and Collective Action Designation.**

3 The Court previously certified the Class and Collective for settlement purposes only pursuant  
4 to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure and as a FLSA collective action. [ECF  
5 No. 94]. The Court ruled that, for purposes of the settlement, the Class meets the Rule 23 requirements  
6 as well as the FLSA collective action requirements. (*Id.*). The Court also appointed the named  
7 Plaintiffs as Class Representatives and Plaintiffs' counsel as Class Counsel. (*Id.*). For these reasons,  
8 and the reasons set forth in the Motion for Preliminary Approval, Plaintiffs respectfully submit that  
9 the Court should grant final certification and collective action designation for purposes of settlement  
10 of this matter and should confirm the appointment of the class representatives and class counsel.

11 **F. The Settlement Administration Fees Should Be Approved**

12 The Settlement Agreement provides for an allocation of funds to cover the costs of third-party  
13 settlement administration. Currently, it is estimated that the settlement administration cost for this case  
14 will not exceed \$36,744. (Exh. B, Stoops Decl. at ¶ 61). The settlement administration duties, as outlined  
15 in the Settlement Agreement, have been handled by Atticus Administration, LLC. (*Id.* at ¶ 60). Atticus  
16 Administration, LLC, is well-respected and has been utilized successfully by Class Counsel in numerous  
17 settlements of similar nature to the instant litigation. (*Id.*). Completion of settlement administration for a  
18 total fee of \$36,744 is reasonable given the number of individuals involved in the Settlement. Therefore,  
19 Plaintiffs request approval of Atticus Administration, LLC as the administrator and of the allocation of  
20 \$36,744 for administration expenses.

21 **V. CONCLUSION**

22 For the foregoing reasons Plaintiffs, without opposition from Defendant, respectfully requests  
23 that the Court enter an order (1) certifying a class for settlement purposes under Rule 23 and certifying  
24 a FLSA collective for settlement purposes under 29 U.S.C. § 201, *et seq.* (as defined in the Parties'  
25 Settlement Agreement); (2) finally approving the Parties' Settlement Agreement; (3) appointing  
26 Plaintiffs Adrianna Jarrett and Mary Ngethe as Class Representatives for the Class/Collective and  
27 Plaintiffs' counsel as Class Counsel; and (4) awarding fees to the third-party Settlement Administrator  
28 Atticus Administration, LLC.

SOMMERS SCHWARTZ, P.C.

DATED: October 9, 2024

By: /s/ Kevin J. Stoops

Kevin J. Stoops (SBN 332200)  
SOMMERS SCHWARTZ, P.C.  
One Towne Square, Suite 1700  
Southfield, Michigan 48076  
Telephone: (248) 355-0300  
kstoops@sommerspc.com

*Attorneys for Plaintiff and Proposed Collective and  
Class Members*

**CERTIFICATE OF SERVICE**

I certify that on October 9, 2024, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

/s/ Kevin J Stoops  
*Kevin J. Stoops*

**Index of Exhibits**

Exhibit A: Parties' Settlement Agreement

Exhibit B: Declaration of Kevin J. Stoops

Exhibit C: Declaration of Bryn Bridley

Exhibit D: Proposed Order

# Exhibit A

1 SOMMERS SCHWARTZ, PC  
Kevin J. Stoops (State Bar No. 332200)  
2 kstoops@sommerspc.com  
One Town Square, Suite 1700  
3 Southfield, MI 48076  
Telephone: 248-784-6613  
4 Facsimile: 248-936-2143

5 Attorneys for Plaintiffs and Proposed Class and  
Collective Members

6 SPENCER FANE LLP  
7 John V. Picone III (State Bar No. 187226)  
*jpicone@spencerfane.com*  
8 Jennifer S. Coleman (State Bar No. 213210)  
*jcoleman@spencerfane.com*  
9 Elaisha Nandrajog (State Bar No. 301798)  
*enandrajog@spencerfane.com*  
10 225 West Santa Clara Street  
Suite 1500  
11 San Jose, California 95113  
Telephone: 408.286.5100  
12 Facsimile: 408.286.5722

13 Attorneys for Defendant  
[24]7.ai, Inc.

14  
15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 ADRIANNA JARRETT AND MARY  
18 NGETHE, individually and on behalf of all  
other similarly situated,

19 Plaintiffs,

20 v.

21 [24]7.AI, INC.,

22 Defendant.

Case No. 23-cv-00677- EMC

**COLLECTIVE AND CLASS ACTION  
SETTLEMENT AGREEMENT AND  
RELEASE**





1 216(b) (“Collective Opt-In(s)”); and (ii) all non-exempt CSRs who were engaged by Defendant  
2 during the Class Period (estimated at 3,133 individuals by the Parties) but who did not submit  
3 opt-in consent forms during the pre-discovery conditional certification period. (“Rule 23  
4 Member(s)”).

5 f. “Class Counsel” means Kevin J. Stoops and Kathryn E. Milz of Sommers  
6 Schwartz, PC.

7 g. “Class List” means the following information regarding Class Members that  
8 Defendant will in good faith compile from its records and provide to the Settlement  
9 Administrator: (i) each such individual’s full name; (ii) last known mailing address to the extent  
10 available in Defendant’s electronic business records); (iii) email address to the extent available in  
11 Defendant’s electronic business records); (iv) telephone number (to the extent available in  
12 Defendant’s electronic business records); and (v) Social Security Number to the extent available  
13 in Defendant’s electronic business records). The Class List shall also include the dates each such  
14 individual’s engagement began and ended with Defendant during the Class Period. The Class  
15 List shall also indicate whether each such individual is a Collective Opt-In.

16 h. “Class Notice” means the form entitled “Collective and Class Action Notice” to  
17 be sent to Class Members in substantially the form attached hereto as Exhibit A, or as approved  
18 by the Court.

19 i. “Class Period” shall be February 15, 2020 through the date the Court grants  
20 Preliminary Approval of this Agreement or 60 calendar days from April 16, 2024 (whichever date  
21 is earlier).

22 j. “Court” means the United States District Court for the Northern District of  
23 California.

24 k. “Defendant” shall mean and refer to [24]7.ai, Inc.

25 l. “Defendant’s Counsel” shall mean and refer to Jennifer S. Coleman and Elaisha  
26 Nandrajog of Spencer Fane LLP.

27 m. “Effective Date” means 1) if there are no objections to the Settlement, the first  
28 business day following the last of the following occurrences: (i) the date the Court enters the

1 Final Approval Order and Judgment; (ii) if there is an objection, but no appeal is taken from the  
2 Final Approval Order and Judgment, thirty-one (31) calendar days after the Court enters the Final  
3 Approval Order and Judgment; or (iii) if an appeal is taken from the Final Approval Order and  
4 Judgment, then the date of final resolution of that appeal (including any requests for rehearing  
5 and/or petitions for certiorari), resulting in final and complete judicial approval of this Agreement  
6 in its entirety, with no further challenge to the Agreement being possible.

7 n. “Final Approval Hearing” means the hearing at which the Court shall consider the  
8 motion for final approval of this Agreement and determine whether to fully and finally approve  
9 the fairness and reasonableness of this Agreement and enter the Final Approval Order and  
10 Judgment.

11 o. “Final Approval Order and Judgment” means the order and judgment entered and  
12 filed by the Court, that: (1) ultimately approves this Agreement; (2) awards and orders the  
13 payment of all required amounts pursuant to the terms of this Agreement; and (3) enters judgment  
14 in connection with the Action. The Final Approval Order and Judgment will constitute a binding  
15 and final resolution, have full res judicata effect, and discharge Defendant and Released Parties  
16 from liability for any and all claims by Plaintiff and all Settlement Class Members as to all Settled  
17 Claims.

18 p. “FLSA” means the Fair Labor Standards Act, as amended, 29 U.S.C. §§  
19 201, *et seq.*

20 q. “FLSA Settlement Payment” means the amount payable from the Net Settlement  
21 Amount to each Settlement Class Member for resolution of the FLSA claim alleged in the Action,  
22 which comprises a portion of the Individual Settlement Payment(s).

23 r. “Gross Settlement Amount” means a total payment of One Million and One  
24 Hundred Thousand Dollars and Zero Cents (\$1,100,000.00) payable by Defendant under this  
25 Agreement. The Gross Settlement Amount includes all Attorneys’ Fees, Attorney’s Costs,  
26 Settlement Administration Costs, Incentive Award(s) to Plaintiffs, all employee taxes for the  
27 wage portion of any Individual Settlement Payment(s), and the Net Settlement Amount to Class  
28 Members. In no event shall Defendant be required to pay any amounts above the Gross

1 Settlement Amount to effectuate this Agreement, except that Defendant shall pay all employer  
2 side taxes separately and in addition to the Gross Settlement Amount. The Settlement  
3 Administrator will withhold the employees' share of taxes on settlement payments, as provided  
4 below, and Class Members shall remain responsible for paying any additional taxes due on any  
5 payments they are issued under the Agreement. No amount of the Gross Settlement Amount  
6 will be reverted to Defendant and this Agreement does not require any claims-made process.

7 s. "Incentive Award(s)" means the individual payments to Plaintiffs as approved by  
8 the Court, not to exceed Five Thousand Dollars and Zero Cents (\$5,000.00) to each Plaintiff, or  
9 Ten Thousand Dollars and Zero Cents (\$10,000.00) in total, in recognition of Plaintiffs' efforts  
10 and work in prosecuting the Action.

11 t. "Individual Settlement Payment(s)" means the net payment of each Settlement  
12 Class Member's *pro rata* share of the Net Settlement Amount, after reduction of taxes and  
13 withholding, with respect to the wage portion of the *pro rata* share.

14 u. "Net Settlement Amount" means the Gross Settlement Amount less: (i) the  
15 Incentive Award(s), as approved by the Court; (ii) the Attorneys' Fees, as approved by the Court;  
16 (iii) Attorneys' Costs Award, as approved by the Court; and (iv) Settlement Administrator Costs,  
17 as approved by the Court.

18 v. "Objection(s)" means an objection to the Settlement that a Rule 23 Member  
19 submits in writing to the Settlement Administrator. Each Objection must: (i) contain the name and  
20 case number of the Action; (ii) contain the full name, address, and telephone number of the  
21 objecting Rule 23 Member; (iii) be signed by the Rule 23 Member; (iv) contain a written  
22 statement of all grounds for the Objection accompanied by any legal support for such Objection;  
23 (v) contain copies of any papers, briefs, or other documents upon which the Objection is based;  
24 and (vi) be emailed, postmarked or fax stamped on or before the Objection Period (as defined  
25 below) and returned to the Settlement Administrator at the email address, mailing address and/or  
26 fax number specified in the Class Notice. If a Rule 23 Member submits both an Objection and an  
27 Opt Out Request, he or she will be excluded from the Settlement and the Objection will not be  
28 considered.

1 w. “Objection Period” means the day that is forty-five (45) calendar days after  
2 the Class Notice is mailed to Class Members via First-Class U.S. Mail and/or emailed (if email  
3 addresses are known and available) and is the deadline to submit an Opt Out Request (as defined  
4 herein), Objection (as defined herein) and/or Workweeks Dispute (as defined herein). Any Class  
5 Members who have their Class Notice(s) remailed will have an additional fourteen calendar (14)  
6 days beyond the Objection Period to file an Opt Out Request, Objection and/or Workweek  
7 Dispute.

8 x. “Opt Out Request” means a request by a Rule 23 Member to be excluded  
9 from the Settlement. Each “Opt Out Request” must: (i) contain the name and case number of the  
10 Action; (ii) contain the full name, address, and telephone number of the Rule 23 Member  
11 requesting exclusion from the Settlement; (iii) be signed by the Rule 23 Member; (iv) contain a  
12 clear written statement indicating that the Rule 23 Member seeks exclusion from the Settlement;  
13 and (v) be emailed, postmarked or fax stamped on or before the Objection Period and returned to  
14 the Settlement Administrator at the email address, mailing address or fax number specified in the  
15 Class Notice.

16 y. “Parties” shall collectively mean and refer to Plaintiffs (*i.e.*, Adrianna Jarrett and  
17 Mary Ngethe and Defendant (*i.e.*, [24]7.ai, Inc.).

18 z. “Plaintiffs” shall mean and refer to Adrianna Jarrett and Mary Ngethe.

19 aa. “Preliminary Approval Order” is the Order entered and filed by the Court that  
20 preliminarily approves the terms and conditions of this Agreement, including approval of the  
21 Parties’ Agreement that specifies the content of the Class Notice and manner in which Class  
22 Notice will be provided to the Class and responded to by the Class.

23 bb. “Qualified Settlement Fund” shall mean an account established by the Settlement  
24 Administrator for Defendant’s payment of the Gross Settlement Amount.

25 cc. “Released Parties” shall mean Defendant [24].ai, Inc. and each of its parent  
26 companies, subsidiaries, affiliates, assigns, predecessors, successors, owners (whether managers,  
27 partners, shareholders), directors, employees (current and former), board members and agents.

28 dd. “Rule 23 Settlement Payment” means the amount payable from the Net

1 Settlement Amount to each Settlement Class Member for resolution of the Rule 23 Claims, which  
2 comprises a portion of the Individual Settlement Payment(s).

3 ee. “Settlement Administrator” shall mean Atticus Administration, LLC, a neutral  
4 third party administrator mutually chosen by the Parties and approved by the Court.

5 ff. “Settlement Administration Costs” shall mean the amount to be paid to the  
6 Settlement Administrator for the costs of administering this Settlement, not to exceed Forty  
7 Thousand Dollars and Zero Cents (\$40,000.00).

8 gg. “Settled FLSA Claims” means any and all claims, actions, demands, causes of  
9 action, suits, debts, obligations, damages, rights or liabilities, of any nature and description  
10 whatsoever, whether known or unknown, that arise during the Class Period and that are based on  
11 or are reasonably related to claims for unpaid wages (including but not limited to claims for  
12 regular wages, overtime, and gap time) under the FLSA. Settled FLSA Claims exclude claims  
13 that are: (i) not based on or reasonably related to the claims asserted in the Action; and/or (ii)  
14 expressly non-waivable under the law, including claims for retaliation, wrongful termination,  
15 unemployment, disability, worker’s compensation; and/or (iii) outside of the Class Period.

16 hh. “Settled Rule 23 Class Claims” means any and all claims, actions, demands,  
17 causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and  
18 description whatsoever, whether known or unknown, that arise during the Class Period and that  
19 are based on or are reasonably related to claims under applicable state and common law wage  
20 theories (including but not limited to claims for breach of contract and/or unjust enrichment).  
21 Settled Rule 23 Class Claims exclude claims that are: (i) not based on or reasonably related to the  
22 claims asserted in the Action; and/or (ii) expressly non-waivable under the law, including claims  
23 for retaliation, wrongful termination, unemployment, disability, worker’s compensation; and/or  
24 (iii) outside of the Class Period.

25 ii. “Settlement Class Member(s)” means: (i) the Collective Opt-Ins (*i.e.*, the  
26 848 non-exempt CSRs, including Plaintiffs, who joined this Action by submitting opt-in consent  
27 forms (available at Dkt. Nos. 1-3; 1-4; 50-1; 51-1’ 52-1; 53-1; 54-1; 55-1; 56-1; 57-1; 58-1; 59-1;  
28 60-1; 61-1; 62-1; 63-1; 64-1; 67-1; 68-1; 70-1; 71-1; 72-1; 73-1; 74-1; 75-1; 76-1) following





1 thereafter stipulated to circulation of a jointly drafted conditional certification notice on June 28,  
2 2023, which the Court approved on July 7, 2023. Plaintiffs withdrew their pending pre-discovery  
3 motion on July 11, 2023.

4 6. The Parties retained Atticus Administration to circulate the Court approved notice.  
5 Notice was administered to 3,978 individuals engaged by Defendant as CSRs dating back to  
6 February 15, 2020. At the conclusion of the opt-in period on November 10, 2023, 848  
7 individuals had filed notices of consent to join the case.

8 7. Defendant denies all material allegations set forth in the Action and has asserted  
9 numerous affirmative defenses in the case. Notwithstanding its denials of all material allegations,  
10 and in the interest of avoiding further litigation, Defendant desires to fully and finally settle the  
11 Action and all Settled Claims.

12 8. Class Counsel diligently investigated the claims against Defendant, including any  
13 and all applicable defenses under the applicable law. The investigation included, inter alia, the  
14 exchange of information, data, and documents, and review of Defendant's employment and  
15 operations policies, practices, and procedures.

16 9. On April 16, 2024, the Parties participated in mediation with Michael E. Dickstein,  
17 Esq., a respected mediator of complex wage and hour class and collective actions, and reached  
18 the settlement that is memorialized herein. The Parties agree that the terms and conditions of this  
19 Agreement are the result of lengthy, intensive arms-length negotiations, and the Settlement is the  
20 result of an informed and detailed analysis of Defendant's potential liability and exposure in  
21 relation to the costs and risks associated with continued litigation. Based on the facts developed  
22 during discovery and at mediation and relating to the information and documents produced, as  
23 well as Class Counsel's own independent investigation and evaluation, Class Counsel believes  
24 that the settlement with Defendant for the consideration and on the terms set forth in this  
25 Settlement Agreement is fair, reasonable, and adequate and is in the best interest of all Class  
26 Members, in light of all known facts and circumstances, including the risk of significant delay  
27 and uncertainty associated with litigation and various defenses asserted by Defendant.

28 10. The Parties expressly acknowledge that this Settlement Agreement is entered into



1 solely for the purpose of compromising significantly disputed claims and that nothing herein is an  
2 admission of liability or wrongdoing by Defendant. If for any reason the Settlement Agreement is  
3 not approved, it will be of no force or effect, and the Parties shall be returned to their original  
4 respective positions.

5 **TERMS AND CONDITIONS OF SETTLEMENT**

6 NOW THEREFORE, in consideration of the recitals listed above and the promises and  
7 warranties set forth below, and intending to be legally bound and acknowledging the sufficiency  
8 of the consideration and undertakings set forth herein, Plaintiffs, individually on behalf of  
9 themselves and on behalf of the Class Members, on the one hand, and Defendant, on the other  
10 hand, agree that the Action shall be, and are, finally and fully compromised and settled on the  
11 following terms and conditions.

12 11. Release of Settled FLSA Claims and Settled Rule 23 Class Claims by Settlement  
13 Class Members. As of the Effective Date and full funding of the Gross Settlement Amount, all  
14 Settlement Class Members shall be deemed to have fully, finally, and forever released, settled,  
15 compromised, relinquished, and discharged any and all Settled FLSA Claims and Settled Rule 23  
16 Class Claims during the Class Period against any and all Released Parties. Defendant shall be  
17 entitled to a release of Settled FLSA Claims and Settled Rule 23 Class Claims which occurred  
18 during the Class Period only during such time that the Settlement Class Member was classified as  
19 non-exempt. The Parties agree for settlement purposes only that, because the Class Members are  
20 so numerous, it is impossible or impracticable to have each Class Member execute this  
21 Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature of  
22 the Settlement as to Settlement Class Members, and such notice shall have the same force and  
23 effect as if the Agreement were executed by each Class Member.

24 12. General Release of Claims by Plaintiffs. As of the Effective Date and full funding  
25 of the Gross Settlement Amount, in addition to all other releases set forth in this Agreement, and  
26 except as to claims specifically excluded, the Plaintiffs make the additional following release. The  
27 Plaintiffs release the Released Parties from all claims, actions, demands, causes of action, suits,  
28 debts, obligations, damages, rights or liabilities, of any nature and description whatsoever, known

1 or unknown, anticipated or unanticipated, asserted or that might have been asserted, whether in  
2 tort, contract, or for violation of any state or federal statute, rule, or regulation that could be or are  
3 asserted based upon any theory or facts whatsoever, arising at any time up to and including the  
4 date of the execution of this Settlement Agreement. The release set forth in this Paragraph shall  
5 be referred to as the “General Release.” The Plaintiffs agree not to sue or otherwise make a claim  
6 against any of the Released Parties that is in any way related to the General Release to the  
7 maximum extent permitted by law. The General Release includes any unknown claims the  
8 Plaintiffs do not know or suspect to exist in their favor at the time of the General Release, which,  
9 if known by either, might have affected his respective settlement with, and release of, the  
10 Released Parties by the Plaintiffs or might have affected their decisions not to object to this  
11 Settlement or the General Release. With respect to this General Release, the Plaintiffs stipulate  
12 and agree that they shall be deemed to have, and by operation of the Final Judgment shall have,  
13 expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights  
14 and benefits of Section 1542 of the California Civil Code, which states:

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

19 This General Release shall not affect or bar any claims that the Plaintiffs may have that  
20 are not waivable under the law, including claims under the National Labor Relations Act, and the  
21 right to receive benefits under any retirement plan or to elect COBRA continuation of health  
22 insurance benefits. Nor shall the General Release preclude the Plaintiffs from filing a charge with  
23 any applicable administrative agency. The Plaintiffs understand and agree, however, that by way  
24 of the General Release, they individually release any right to recover monetary damages in an  
25 action brought by an administrative agency.

26 13. Allocation of Net Settlement Amount. The Net Settlement Amount shall be split  
27 into two buckets: 1) the “FLSA Settlement Payment” bucket, which shall consist of 74% of the  
28 Net Settlement Amount; and 2) the “Rule 23 Settlement Payment” bucket, which shall consist of

1 24% of the Net Settlement Amount.

2 14. Issuance of Settlement Checks. The Settlement Administrator shall issue each  
3 Settlement Class Member one check for their “FLSA Settlement Payment” and one check for  
4 their “Rule 23 Settlement Payment.”

5 15. Release Language on FLSA Claim Settlement Checks. The Settlement  
6 Administrator shall include the following release language on the back of each FLSA claim  
7 settlement check, as appropriate:

8 a. For Collective Opt-Ins: “This check is your FLSA settlement payment in  
9 connection with the court-approved collective and class action Settlement in the case entitled  
10 *Jarrett et al v. [24]7.ai, Inc.*, Case No. 23-cv-00677-EMC, pending in the United States District  
11 Court, Northern District of California (the “Action”). You previously submitted a consent to join  
12 form and affirmatively joined the action as a FLSA opt-in. By signing or cashing your check, you  
13 acknowledge that you are participating in the Settlement and that you are releasing the Settled  
14 FLSA Claims against the Released Parties (as those terms are defined in the Class Notice).”

15 b. For Rule 23 Members: “This check is your FLSA settlement payment in  
16 connection with the court-approved collective and class action Settlement in the case entitled  
17 *Jarrett et al v. [24]7.ai, Inc.*, Case No. 23-cv-00677-EMC, pending in the United States District  
18 Court, Northern District of California, (the “Action”). By signing or cashing this check, you are  
19 consenting to join the Action and are fully, finally, and forever releasing, settling, compromising,  
20 relinquishing, and discharging the Released Parties from any and all claims, actions, demands,  
21 causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and  
22 description whatsoever, whether known or unknown, that arise during the period of February 15,  
23 2020 through the date the Court grants Preliminary Approval of the Settlement or 60 calendar  
24 days from April 16, 2024 (whichever date is earlier), and that are based on or are reasonably  
25 related to claims for unpaid wages (including but not limited to claims for regular wages,  
26 overtime, and gap time) under the FLSA. By signing or cashing your check, you acknowledge  
27 that you have read the Class Notice, that you consent to join the Action as a FLSA opt-in and  
28 participate in the Settlement, and that you are releasing the Settled FLSA Claims against the

1 Released Parties (as those terms are defined in the Class Notice).”

2           16.    Release Language on Rule 23 Settlement Checks. The Settlement Administrator  
3 shall include the following release language on the back of each Rule 23 Settlement check: “This  
4 check is your Rule 23 settlement payment in connection with the court-approved collective and  
5 class action Settlement in the case entitled *Jarrett et al v. [24]7.ai, Inc.*, Case No. 23-cv-00677-  
6 EMC, pending in the United States District Court, Northern District of California, (the “Action”).  
7 By signing or cashing this check, you are fully, finally, and forever releasing, settling,  
8 compromising, relinquishing, and discharging the Released Parties from any and all claims,  
9 actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any  
10 nature and description whatsoever, whether known or unknown, that arise during the period of  
11 February 15, 2020 through the date the Court grants Preliminary Approval of the Settlement or 60  
12 calendar days from April 16, 2024 (whichever date is earlier), and that are based on or are  
13 reasonably related to claims under applicable state and common law wage theories (including but  
14 not limited to claims for breach of contract and/or unjust enrichment). By signing or cashing your  
15 check, you acknowledge that you have read the Class Notice, that you consent to participate in  
16 the Settlement, and that you are releasing the Settled Rule 23 Class Claims against the Released  
17 Parties (as those terms are defined in the Class Notice).”

18           17.    Prohibitions Based on Releases. Settlement Class Members, including Plaintiffs, to  
19 the fullest extent allowed by law, are prohibited from asserting any claims released by them in  
20 this Settlement, and from commencing, joining in, prosecuting, or voluntarily assisting in a  
21 lawsuit or adversarial proceeding against the Released Parties, based on claims released by them  
22 in this Settlement. Excluded from this prohibition are any instances where any individual is  
23 legally compelled to testify through service of a subpoena or other legal process.

24           18.    Calculation of Settlement Payments. The Gross Settlement Amount shall be  
25 apportioned as follows:

26           a.    Attorneys’ Fees. Class Counsel will apply to the Court for an award of attorneys’  
27 fees up to thirty-three and one-third percent (33.33%) of the Gross Settlement Amount (*i.e.*, no  
28 more than Three Hundred and Sixty-Six Thousand Six Hundred and Thirty Dollars and Zero

1 Cents (\$366,630.00)). The Attorneys' Fees shall be paid from and be deducted from the Gross  
2 Settlement Amount subject to Court approval, and Defendant will not oppose such application. In  
3 the event the Court approves an amount of attorneys' fees that is less than the amount provided  
4 herein, the unawarded amount shall become part of the Net Settlement Amount for distribution to  
5 Settlement Class Members. Any reduction by the Court shall not constitute grounds for  
6 revocation or cancellation of this Agreement by Plaintiffs, or grounds for an appeal of the Court's  
7 Order approving Attorneys' Fees.

8           b. Attorneys' Costs. Class Counsel shall request approval of an amount not to  
9 exceed Forty Thousand Dollars and Zero Cents (\$40,000.00) for reimbursement of litigation costs  
10 and expenses incurred in the Action, which will be paid and deducted from the Gross Settlement  
11 Amount subject to Court approval. Defendant will not oppose such application. Any unawarded  
12 Attorneys' Costs shall become part of the Net Settlement Amount for distribution to Settlement  
13 Class Members. Any reduction by the Court shall not constitute grounds for revocation or  
14 cancellation of this Agreement by Plaintiffs, or grounds for an appeal of the Court's Order  
15 approving attorneys' costs. Attorneys' Fees as specified in the preceding paragraph and  
16 Attorneys' Costs as specified in this paragraph shall cover all claimed and unclaimed Attorneys'  
17 Fees, Attorneys' Costs, and other amounts payable or awardable against Defendant for Class  
18 Counsel's work, effort, or involvement in the Action and in carrying out the Agreement and  
19 includes any and all work, effort, or involvement to carry out the terms of the Agreement and as  
20 may be potentially or actually necessary or advisable to defend the Settlement through appeal, or  
21 collateral attack or in any other forum or proceeding. These specified Attorneys' Fees and  
22 Attorneys' Costs shall be the sole payment for attorneys' fees and costs and, otherwise, the  
23 Parties and Class Members and their counsel shall bear their own fees and costs in connection  
24 with the Action.

25           c. Settlement Administration Costs. Class Counsel will also apply to the Court for  
26 approval of costs of settlement administration in an amount currently estimated to be up to Forty  
27 Thousand Dollars and Zero Cents (\$40,000.00), which the Parties agree will be paid and deducted  
28 from the Gross Settlement Amount subject to Court approval. These costs will include, inter alia

1 printing, distributing, and tracking Class Notices and other documents for the Settlement,  
 2 calculating and distributing payments due under the Settlement, issuing of 1099 and W-2 IRS  
 3 Forms and all required tax reporting, filings, withholdings, and remittances, providing necessary  
 4 reports and declarations, and other duties and responsibilities set forth herein to process this  
 5 Settlement, and as requested by the Parties. To the extent actual Settlement Administration Costs  
 6 are greater than the estimated amount stated herein, such excess amount will be deducted from  
 7 the Gross Settlement Amount, subject to Court approval. Any unawarded amount shall become  
 8 part of the Net Settlement Amount for distribution to Settlement Class Members. Class Counsel  
 9 will specify the amount sought for such costs in Plaintiffs' motion for final approval of the  
 10 Settlement. Plaintiffs, Class Counsel, Defendant, and Defendant's Counsel shall not bear any  
 11 responsibility for errors or omissions in the calculation or distribution of payments or the  
 12 development of the list of recipients of payments provided for under the Settlement.

13 d. Plaintiffs' Incentive Award(s). In recognition of their efforts and work in  
 14 prosecuting the Action, Defendant agrees not to oppose or impede any application or  
 15 motion for Incentive Awards to Plaintiffs in an amount not to exceed Five Thousand Dollars  
 16 and Zero Cents (\$5,000.00) each— i.e., a total amount of Ten Thousand Dollars and Zero  
 17 Cents (\$10,000.00)—to be paid and deducted from the Gross Settlement Amount, subject to  
 18 Court approval. The Settlement Administrator will issue an IRS Form 1099 to Plaintiffs for the  
 19 Incentive Awards, and Plaintiffs shall be solely and legally responsible for correctly  
 20 characterizing this compensation for tax purposes and for paying any taxes on the amounts  
 21 received. Any unawarded amount shall become part of the Net Settlement Amount for  
 22 distribution to Settlement Class Members. Any reduction by the Court shall not constitute  
 23 grounds for revocation or cancellation of this Agreement by Plaintiffs, or grounds for an appeal of  
 24 the Court's Order approving Plaintiffs' Incentive Awards. In no event shall the Gross Settlement  
 25 Amount be increased in the event the Court awards higher Incentive Awards to the Plaintiffs.

26 e. Calculating Individual Settlement Payments to Settlement Class Members.  
 27 After splitting the Net Settlement Amount into two buckets (1) the "FLSA Settlement Payment"  
 28 bucket, which shall consist of 74% of the Net Settlement Amount; and 2) the "Rule 23 Settlement

1 Payment” bucket, which shall consist of 24% of the Net Settlement Amount), Individual FLSA  
2 and Rule 23 Settlement Payments to the Settlement Class Members will be calculated from the  
3 amounts in each bucket as follows:

4 i. The Settlement Administrator will use the number of Workweek(s)  
5 worked by Settlement Class Members during the Class Period, which will be determined based on  
6 the information in the Class List Defendant will provide to the Settlement Administrator;

7 ii. Each of the Settlement Class Members is eligible to receive a *pro rata*  
8 share of the FLSA Settlement Payment bucket and the Rule 23 Settlement Payment bucket based  
9 on their share of the total number of Workweeks during the Class Period.

10 iii. The value of a single Workweek during the Class Period shall be  
11 determined by dividing the FLSA Settlement Payment bucket and the Rule 23 Settlement  
12 Payment bucket by the total number of Workweeks during the  
13 Class Period worked by all Settlement Class Members. Each Settlement Class Member shall be  
14 allocated a gross payment equal to their individual Workweeks during the Class Period multiplied  
15 by the value of a single Workweek during the Class Period. As noted below, however, no  
16 Settlement Class Member will receive a net payment (following taxes and withholding) that is  
17 less than Twenty Dollars and Zero Cents (\$20.00).

18 iv. The Parties agree that under no circumstances shall Defendant be  
19 obligated to pay any amounts under this Agreement to any Class Member other than the  
20 Individual Settlement Payments to Settlement Class Members that is provided for under this  
21 Agreement.

22 v. The Parties acknowledge and agree that the formulas used to calculate  
23 Individual Settlement Payments do not imply that all of the elements of damages covered by the  
24 release are not being taken into account.

25 19. Taxation of Settlement Proceeds.

26 a. The Parties agree that the individual FLSA Settlement Payment and Rule 23  
27 Settlement Payment (collectively, Individual Settlement Payment(s)) shall be allocated as  
28 follows: (i) fifty percent (50%) of each Settlement Class Member’s Individual Settlement



1 Payments will be allocated to settlement of wage claims (the “Wage Portions”); and (ii) the  
2 remaining fifty percent (50%) will be allocated to liquidated damages, penalties and interest. The  
3 Settlement Administrator will withhold the Settlement Class Members’ share of taxes and  
4 withholdings with respect to the wages portion of the Individual Settlement Payments, and issue  
5 checks to Settlement Class Members for the net of their individual FLSA Settlement Payment and  
6 Rule 23 Settlement Payment, provided that no Settlement Class Member will receive an  
7 Individual Settlement Payment of less than Twenty Dollars and Zero Cents (\$20.00). The Wage  
8 Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The portion  
9 allocated to liquidated damages, penalties and interest (i.e., Non-Wage Portions) are not subject to  
10 wage withholdings and will be reported on IRS 1099 Forms (if required). Settlement Class  
11 Members assume full responsibility and liability for any employee taxes owed on their Individual  
12 Settlement Payments. As noted, Defendant will pay the employer share of taxes separately and in  
13 addition to the Gross Settlement Amount.

14           b. The Settlement Administrator shall calculate, withhold from the individual FLSA  
15 Settlement Payment and Rule 23 Settlement Payment, and remit to applicable governmental  
16 agencies sufficient amounts, if any, as may be owed by Settlement Class Members for applicable  
17 employee taxes. The Settlement Administrator will issue appropriate tax forms, as required, to  
18 each such Settlement Class Member consistent with the above allocations.

19           c. All Parties represent that they have not received, and shall not rely on, advice or  
20 representations from other Parties or their agents regarding the tax treatment of payments under  
21 federal, state, or local law. In this regard, Defendant makes no representations regarding the  
22 taxability of the individual FLSA Settlement Payment and Rule 23 Settlement Payment or any  
23 other payments made under this Agreement.

24           d. Class Counsel will be issued an IRS Form 1099 for the Attorneys’ Fees and  
25 Attorneys’ Costs awarded by the Court.

26           e. Plaintiffs will be issued an IRS Form 1099 for any Incentive Awards approved by  
27 the Court. The Incentive Awards payable to Plaintiffs shall be in addition to the Individual  
28 Settlement Payments they will each receive.



1           20.    No Credit Toward Benefit Plans. All payments made under this Agreement shall  
2 not be utilized to calculate any additional benefits under any benefit plans to which any  
3 Settlement Class Members may be eligible, including, but not limited to: (i) profit-sharing plans;  
4 (ii) bonus plans; (iii) 401(k) plans; (iv) stock purchase plans; (v) vacation plans; (vi) sick leave  
5 plans; (vii) PTO plans; and (viii) any other benefit plan. Rather, it is the Parties' intention that this  
6 Agreement will not affect any rights, contributions, or amounts to which any Settlement Class  
7 Members may be entitled under any benefit plans.

8           21.    Preliminary Approval of Settlement. Upon execution of this Settlement  
9 Agreement, Plaintiffs shall promptly, but not later than thirty (30) calendar days, obtain a hearing  
10 date for Plaintiffs' motion for preliminary approval of the Settlement in the Action, and submit  
11 this Settlement Agreement to the Court in support of said motion. Defendant agrees not to oppose  
12 the motion for preliminary approval of the Settlement consistent with this Settlement Agreement.  
13 Said motion shall apply to the Court for the entry of an order ("Preliminary Approval Order"),  
14 which shall be mutually agreed upon by the Parties, seeking the following:

15           a.    Conditionally certifying the Class pursuant to 29 U.S.C. § 216(b) and Fed R. Civ.  
16 P. 23(a) and 23(b)(3) for settlement purposes only;

17           b.    Preliminarily approving this Agreement and the settlement terms;

18           c.    Preliminarily approving the appointment of Plaintiffs as representatives of the  
19 Class for settlement purposes;

20           d.    Preliminarily appointing Class Counsel as counsel for the Class;

21           e.    Appointing and approving the Settlement Administrator, to comply with the  
22 duties and obligations as required by this Agreement;

23           f.    Approving the form and content of the Class Notice mutually agreed upon by the  
24 Parties and directing its mailing to the Class by U.S. Mail and/or its emailing (where email  
25 addresses are known and available);

26           g.    Scheduling the Final Approval Hearing for consideration of whether the  
27 Settlement should be finally approved as fair, reasonable, and adequate; and

28           h.    Approving the manner and method for Class Members to object to or opt out of

1 the Settlement as contained herein and within the Class Notice.

2 Class Counsel shall provide Defendant with at least three (3) business days to review and  
3 provide comments on the motions for preliminary and final approval of the Settlement before the  
4 motions and supporting papers are filed with the Court. A request by the Court for supplemental  
5 briefing, or a preliminary denial pending additional briefing, shall not be deemed a denial of  
6 preliminary approval or final approval. To the extent the Court requests further or supplemental  
7 briefing, the Parties will work in good faith to address the Court's concerns and questions.

8 22. Notice Procedure.

9 a. Class List. Within fourteen (14) calendar days after notice of entry  
10 of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator and  
11 Class Counsel with the Class List. The Settlement Administrator and Class Counsel will each  
12 keep the Class List confidential and shall not provide it to anyone absent express written approval  
13 from Defendant. The Settlement Administrator and Class Counsel shall use the information  
14 contained in the Class List only for the purpose of assisting with the administration of the  
15 Settlement, including fielding questions from Settlement Class Members. Class Counsel shall  
16 provide the Settlement Administrator with updated addresses or contact information for the  
17 Collective Opt-Ins in their possession. Class Counsel and the Settlement Administrator will take  
18 adequate safeguards to protect confidential or private information in the Class List and will each  
19 return or certify the destruction of the information upon completion of the Settlement  
20 Administration process.

21 b. Updating Addressed Prior to Notice. Prior to mailing the Class Notice, the  
22 Settlement Administrator will update the addresses for the Class Members using skip trace or  
23 other available public or proprietary systems. To the extent this process yields a different address  
24 from the one supplied by Defendant, the Settlement Administrator will replace the address  
25 supplied by Defendant with the updated address and will treat the updated address as the new  
26 mailing address for purposes of this Agreement and for subsequent mailings.

27 c. Notice Process. Within fourteen (14) calendar days following receipt of the Class  
28 List, the Settlement Administrator shall prepare and send to Class Members the approved Class

1 Notice. The Settlement Administrator shall deliver the Class Notice by First-Class U.S. Mail to  
2 each Class Member's last known mailing address and via email (if email addresses are known and  
3 available). The Settlement Administrator will provide notice to Class Counsel and Defendant's  
4 Counsel once the notice process referenced above is completed.

5 d. Opt Out Request(s). Any Rule 23 Member may exclude themselves from  
6 the Settlement. Any such Opt Out Request must be submitted to the Settlement Administrator in  
7 writing on or before the Objection Period. Opt Out Requests do not apply to the Collective Opt-  
8 Ins, since they have already provided notices of consent to join the Action.

9 e. Objection(s). Any Rule 23 Member may object to the Settlement by submitting an  
10 Objection to the Settlement Administrator or may also present their objection orally at the Final  
11 Approval Hearing, irrespective of whether they submit an Objection. The Parties shall be  
12 permitted to file responses to any Objections prior to the Final Approval Hearing and/or to  
13 respond to or address the Objection at the Final Approval Hearing. At no time shall any of the  
14 Parties or their counsel seek to solicit or otherwise encourage Rule 23 Members to submit any  
15 Objections to the Settlement or appeal from the Final Approval Order and Judgment. Class  
16 Counsel shall not represent any Rule 23 Members with respect to any such Objections. Within  
17 two (2) business days after receipt of an Objection, the Settlement Administrator shall serve the  
18 Objection on the Parties, and at least sixteen (16) court days before the Final Approval Hearing,  
19 the Settlement Administrator shall submit all Objections received by the Settlement Administrator  
20 to the Court. The Court may consider any Opt Out Requests, and/or Objections submitted at or  
21 before the Final Approval Hearing. Objections do not apply to the Collective Opt-Ins, since they  
22 have already provided notices of consent to join the Action.

23 f. Workweeks Disputes. Settlement Class Members will have the right to challenge  
24 the number of Workweeks allocated to them. Class Members shall have until the Objection  
25 Period to submit to the Settlement Administrator their dispute in writing ("Workweek Dispute")  
26 at the address indicated on the Class Notice. Each Workweeks Dispute must: (i) contain the name  
27 and case number of the Action; (ii) contain the full name, address, and telephone number of the  
28 Class Member; (iii) be signed by the Class Member; (iv) clearly state that the Class Member

1 disputes of the number of Workweeks credited to them and what they contends are the correct  
2 numbers to be credited to them; (v) attach any documentation that they have to support the  
3 dispute; and (vi) be emailed, postmarked or fax stamped on or before the Objection Period and  
4 returned to the Settlement Administrator at the email address, mailing address or fax number  
5 specified in the Class Notice. The Settlement Administrator will inform Class Counsel and  
6 Defendant's Counsel in writing of any timely submitted Workweeks Disputes. Defendant shall  
7 have the right to respond to any Workweek Dispute submitted by any Class Members within ten  
8 (10) business days of being informed of a timely submitted Workweek Dispute, and shall  
9 cooperate in providing the Settlement Administrator with information to determine all such  
10 Workweek Disputes. The Settlement Administrator will determine all such Workweek Disputes  
11 following Defendant's opportunity to respond. Subject to Court approval, Workweek Disputes  
12 will be resolved without hearing by the Settlement Administrator, who will make a decision based  
13 on Defendant's records and any documents or other information presented by the Class Member  
14 making the Workweek Dispute, Class Counsel, or Defendant.

15 g. Settlement Administrator Follow-up Efforts. If a Class Notice is returned by the  
16 Post Office as undeliverable, but with a forwarding address, on or before the Objection Period,  
17 then, the Settlement Administrator shall re-mail it by First-Class U.S. mail. If a Class Member  
18 personally provides an updated address to the Settlement Administrator on or before the  
19 Objection Period, then, the Settlement Administrator shall re-mail said Class Member's Class  
20 Notice by First-Class U.S. mail to the updated address provided by the Class Member. If a Class  
21 Notice is returned by the Post Office as undeliverable, without a forwarding address, on or before  
22 the Objection Period, then, the Settlement Administrator shall conduct a search of the National  
23 Change of Address database and, if an alternate address that is likely to be more current is  
24 located, proceed to re-mail the Class Notice by First-Class U.S. mail to the alternate address.

25 h. Documenting Communications. The Settlement Administrator shall date stamp  
26 documents it receives, including Opt Out Requests, Objections, Workweek Disputes, and any  
27 correspondences and documents from Class Members.

28 i. Settlement Administrator Declaration. At least sixteen (16) court days before the

1 Final Approval Hearing, the Settlement Administrator shall prepare, subject to the Parties' input  
2 and approval, a declaration setting forth the due diligence and proof of e-mailing/postal mailing  
3 of the Class Notice, the results of the Settlement Administrator's e-mailings/postal mailings,  
4 including tracing and re-mailing efforts, and the Class Members' responses to those re-mailing  
5 efforts, and provide additional information deemed necessary to approve the settlement.

6 j. Settlement Administrator Written Reports. Each week after initially mailing the  
7 Class Notices and prior to the Objection Period, the Settlement Administrator shall provide the  
8 Parties with a report listing the number of Class Members that submitted Opt Out Requests,  
9 Objections, and/or Workweek Disputes. Within seven (7) calendar days after the Objection  
10 Period, the Settlement Administrator will provide a final report listing the number of Class  
11 Members who submitted Opt Out Requests, Objections, and/or Workweeks Disputes.

12 k. Settlement Administrator Calculations of Individual FLSA Settlement Payment  
13 and Rule 23 Settlement Payment. Within seven (7) calendar days after resolving all Workweek  
14 Disputes made by Settlement Class Members, and following entry of the Final Approval Order  
15 and Judgment, the Settlement Administrator shall provide to the Parties a report showing its  
16 calculation of all amounts that must be funded by Defendant under the Settlement, including but  
17 not limited to, calculations of the individual FLSA Settlement Payment and Rule 23 Settlement  
18 Payment to be made to Settlement Class Members. After receiving the Settlement Administrator's  
19 report, Class Counsel and Defendant's Counsel shall review the same to determine if the  
20 calculation of payments is consistent with this Agreement and the Court's orders and shall notify  
21 the Settlement Administrator if either counsel does not believe the calculation is consistent with  
22 the Agreement and/or the Court's orders. After receipt of comments from counsel, the Settlement  
23 Administrator shall finalize its calculations of payments, at least five (5) calendar days prior to  
24 the distribution of such payments and shall provide Class Counsel and Defendant's Counsel with  
25 a final report listing the amount of all payments to be made to each Settlement Class Member  
26 from the Net Settlement Amount. The Settlement Administrator will also provide information that  
27 is requested and approved by both Parties regarding its duties and other aspects of the Settlement,  
28 and that is necessary to carry out the terms of the Settlement.

1 ///

2 23. Requirements for Recovery of Individual Settlement Payments.

3 a. Class Members. No claim form is necessary for Class Members (*i.e.*, Collective  
4 Opts-Ins and/or Rule 23 Members) to participate in the Settlement. Unless a Rule 23 Member  
5 submits a valid and timely Opt Out Request, that Rule 23 Member will be a Settlement Class  
6 Member, bound by the Final Approval Order and Judgment, and will receive Individual  
7 Settlement Payment(s). The Collective Opt-Ins are all Settlement Class Members by virtue of  
8 having submitted notices of consent to join the Action, and will also be bound by the Final  
9 Approval Order and Judgment and will receive their Individual Settlement Payment(s).

10 b. Late Submissions. The Settlement Administrator shall not accept as timely any  
11 Opt Out Request, Objection, or Workweek Dispute emailed, postmarked or fax stamped after the  
12 Objection Period. It shall be presumed that, if an Opt Out Request, Objection, or Workweek  
13 Dispute is not emailed, postmarked or fax stamped on or before the Objection Period, the Class  
14 Member did not return the Opt Out Request, Objection, or Workweek Dispute in a timely  
15 manner. However, the Court may consider any Opt Outs, and/or Objections submitted at or before  
16 the Final Approval Hearing.

17 c. Opt-Out Procedure. A Rule 23 Member will not be entitled to opt out of the Class  
18 Settlement established by this Agreement unless he or she submits to the Settlement  
19 Administrator a timely and valid Opt Out Request.

20 i. The Settlement Administrator shall not have the authority to extend the  
21 deadline for Rule 23 Members to submit an Opt Out Request absent agreement by both Parties.

22 ii. In the event any Opt Out Request is timely submitted but does not  
23 contain sufficient information to be valid, the Settlement Administrator shall provide the Rule 23  
24 Member, within seven (7) calendar days of receipt of such Opt Out Request, a letter requesting  
25 the information that was not provided and giving the Rule 23 Member fourteen (14) calendar days  
26 from the mailing of such cure letter to respond. Any invalid submission that is not timely cured  
27 will be considered null and void.

28 iii. Rule 23 Members shall be permitted to rescind in writing their Opt Out

1 Request by submitting a written rescission statement to the Settlement Administrator no later than  
2 the calendar day before the Final Approval Hearing.

3           iv. If more than ten percent (10%) of the Settlement Class Members timely  
4 opt out of the Settlement, Defendant shall have the sole and absolute discretion to withdraw from  
5 this Agreement within fourteen (14) calendar days after the Objection Period and written notice  
6 from the Settlement Administrator of the final opt out rate. Defendant shall provide written notice  
7 of such withdrawal to Class Counsel. In the event that Defendant elects to so withdraw, the  
8 withdrawal shall have the same effect as a termination of this Agreement for failure to satisfy a  
9 condition of Settlement, and the Agreement shall become null and void and have no further force  
10 or effect, and Defendant will be responsible for any and all Settlement Administration Costs  
11 incurred as of the date Defendant exercises the sole right referenced herein.

12           24. Final Approval Hearing and Final Approval Order and Judgment.

13           a. Entry of Final Judgment. At the Final Approval Hearing, Plaintiff will request,  
14 and Defendant will join in said request, that the Court enter a jointly-agreed upon Final Approval  
15 Order and Judgment.

16           b. Final Approval Motion. After the Objection Period, Plaintiffs will draft and file a  
17 motion for final approval in conformity with any requirements from the Court and will take any  
18 other actions necessary to request the entry of a Final Approval Order and Judgment in  
19 accordance with this Agreement. In conjunction with the motion for final approval and  
20 requesting an award of Attorneys' Fees, Attorneys' Costs, and Incentive Awards, Class Counsel  
21 shall file a declaration from the Settlement Administrator confirming that the Class Notice was  
22 mailed to all Class Members as required by this Agreement, as well as any additional information  
23 Class Counsel, with the input and approval of Defendant, deems appropriate to provide to the  
24 Court.

25           c. Final Approval Order and Judgment. The Parties shall take all reasonable efforts  
26 to secure entry of the Final Approval Order and Judgment. A request by the Court for  
27 supplemental briefing, or a preliminary denial pending additional briefing, shall not be deemed a  
28 denial of final approval of the Settlement. To the extent the Court requests further or



1 supplemental briefing, the Parties will work in good faith to address the Court’s concerns and  
2 questions. Said Final Approval Order and Judgment will provide for, in substantial part, the  
3 following:

- 4 i. Certify the Class pursuant to 29 U.S.C. § 216(b) and Fed R. Civ.  
5 P. 23(a) and 23(b)(3) for settlement purposes only;
- 6 ii. Find dissemination of the Settlement Notice and Collective Notice was  
7 accomplished as directed and met the requirements of due process;
- 8 iii. Approve the Settlement as final and its terms as fair, reasonable and  
9 adequate;
- 10 iv. Approve payment of Incentive Awards to the Plaintiffs;
- 11 v. Approve Class Counsel’s application for an award of Attorneys’ Fees and  
12 Attorneys’ Costs;
- 13 vi. Approve Settlement Administration Costs;
- 14 vii. Direct Defendant to transfer the Gross Settlement Amount into the  
15 Qualified Settlement Fund, as provided for under this Settlement;
- 16 viii. Direct that the Action be dismissed finally, fully, forever and with  
17 prejudice and, with respect to each Settlement Class Member, in full and final; and
- 18 ix. Enter judgment in this Action, while maintaining continuing  
19 jurisdiction to implement the Settlement.

20 25. Payment of Settlement. Defendant will deposit the Gross Settlement Amount into  
21 the Qualified Settlement Fund within thirty (30) calendar days of the Effective Date.

22 a. The Parties agree that the Gross Settlement Amount will qualify as a settlement  
23 fund pursuant to the requirements of Section 468(B)(g) of the Internal Revenue Code  
24 of 1986, as amended, and Section 1.468B-1 et seq. of the income tax regulations. Furthermore,  
25 the Settlement Administrator is hereby designated as the sole “administrator” of the qualified  
26 settlement funds for purposes of Section 1.468B-2(k) of the income tax regulations. As such, all  
27 employee taxes imposed on the gross income of that settlement fund and any tax-related expenses  
28 arising from any income tax returns or other reporting documents that may be required by the



1 Internal Revenue Service or any state or local taxing body will be paid from the Net Distribution  
2 Fund by the Settlement Administrator.

3 b. Defendants shall not have access to the Gross Settlement Amount, or to  
4 any earned interest, once those funds are deposited into the interest-bearing Qualified Settlement  
5 Fund, except by joint agreement of the parties or by order of the Court. Further, any interest  
6 gained on the Gross Settlement Amount in the Qualified Settlement Fund shall be deemed  
7 part of the Gross Settlement Amount.

8 c. If the Court denies final approval of the Settlement with prejudice, the Gross  
9 Settlement Amount and any interest accrued thereon shall be returned by the Settlement  
10 Administrator to Defendants.

11 d. The Settlement Administrator shall be deemed to have timely distributed  
12 Individual Settlement Payments if it places said payments in the mail (First-Class U.S.) within  
13 fourteen (14) calendar days of Defendant funding the Gross Settlement Amount. If the Settlement  
14 Administrator receives notice from Settlement Class Members that they have not received their  
15 settlement check due to changes of address or other circumstances, the Settlement Administrator  
16 shall make reasonable efforts to ensure the initial payment is cancelled and re-issue the payment  
17 to the Settlement Class Member. The Settlement Administrator shall only undertake one re-  
18 issuance of a payment upon request of a Settlement Class Member.

19 e. The distribution of Attorneys' Fees, Attorneys' Costs, and the Incentive Awards  
20 shall occur no later than fourteen (14) calendar days after the Gross Settlement Amount has been  
21 deposited by Defendant. Under no circumstances shall the foregoing payments be made prior to  
22 the distribution of payments to Settlement Class Members.

23 f. Individual Settlement Payment checks will be valid for one hundred eighty (180)  
24 Calendar days after mailing by the Settlement Administrator. After the one hundred eighty (180)  
25 calendar day check validity period, Individual Settlement Payment checks will become cancelled  
26 and funds associated with the cancelled checks will be transmitted to *cy pres* designee: Bay Area  
27 Legal Aid (or such other *cy pres* designee as ordered by the Court). Settlement Class Members  
28 whose Individual Settlement Payment checks are canceled shall, nevertheless, be bound by this

1 Settlement Agreement and the Final Approval Order and Judgment will have claim preclusive  
2 effect with respect to them and all Settlement Class Members with respect to the Class  
3 Settlement. The Parties agree that this disposition results in no “unpaid residue.” as the entire Net  
4 Distribution Fund will be paid out to Settlement Class Members, whether or not they all cash,  
5 deposit, or otherwise negotiate the payment checks originally issued to them.

6 g. Upon completion of administration of the Settlement, the Settlement  
7 Administrator shall provide written certification of such completion to the Court, Class Counsel,  
8 and Defendant’s Counsel.

9 26. Binding Effect of Agreement on Settlement Class Members. Subject to final Court  
10 approval, all Settlement Class Members shall be bound by this Agreement and Final Approval  
11 Order and Judgment shall be entered in the Action.

12 27. Non-Admission of Liability. The Parties enter into this Agreement to resolve the  
13 Action and to avoid the burden, expense, and risk of continued litigation. In entering into this  
14 Agreement, Defendant does not admit, and specifically denies, that Defendant has: (i) violated  
15 any federal, state, or local law; (ii) violated any regulations or guidelines promulgated pursuant to  
16 any statute or any other applicable laws, regulations, or legal requirements; (iii) breached any  
17 contract; or (iv) engaged in any other culpable, wrongful or unlawful conduct with respect to its  
18 employees or any other person or entity. Neither this Agreement, nor any of its terms or  
19 provisions, nor any of the negotiations connected with it or proceedings, payouts, or other events  
20 associated with it, shall be construed as an admission or concession by Defendant of any such  
21 violation(s) or failure(s) to comply with any applicable law by Defendant or any Released Parties.  
22 The Parties intend this Settlement to be contingent upon the Court’s granting preliminary and  
23 final approval of this Agreement; and in the event final approval of this Agreement is not  
24 obtained, the Parties do not waive, and instead expressly reserve, their respective rights to  
25 prosecute and defend the Action as if this Agreement never existed, including but not limited to  
26 the ability to bring and/or challenge class or collective action treatment on any grounds.

27 28. Automatic Voiding of Agreement if Settlement Not Finalized. If for any  
28 reason the Effective Date does not occur, the Settlement shall be null and void and the orders and

1 judgment to be entered pursuant to this Agreement shall be vacated; and the Parties will be  
2 returned to the status quo prior to entering this Agreement with respect to the Action, as if the  
3 Parties had never entered into this Agreement. In addition, in such event, the Agreement and all  
4 negotiations, court orders and proceedings relating thereto shall be without prejudice to the rights  
5 of any and all Parties hereto. Except as necessary in a proceeding to enforce the terms of this  
6 Settlement Agreement, this Settlement Agreement and its terms and provisions shall not be  
7 offered as evidence in any action or proceeding to establish any liability or admission on the part  
8 of Defendant or to establish the existence of any condition constituting a violation of, or a non-  
9 compliance with state, federal, local, or other applicable law.

10       29.     Stipulation for Class Certification. The Parties stipulate and agree that the  
11 requirements of establishing collective action certification under the FLSA pursuant to 29 U.S.C.  
12 § 216(b) and class certification pursuant to Fed R. Civ. P. 23(a) and 23(b)(3) are met for  
13 settlement purposes only. If, however, the Settlement does not become final for any reason, the  
14 Parties' Agreement shall become null and void ab initio and shall have no bearing on, and shall  
15 not be admissible in connection with, whether class certification would be appropriate in a non-  
16 settlement context.

17       30.     Publicity, Confidentiality and Non-Disparagement.

18             a. Class Counsel agrees not to solicit any Class Members to exclude themselves  
19 from the Settlement, and further agrees not to initiate, contact, or have any communications with  
20 Class Members during the settlement approval process. Nothing will prevent Class Counsel from  
21 responding to inquiries from Class Members. Defendant agrees that it shall not discourage any  
22 Class Members from participating in the Settlement and shall refer any questions to the  
23 Settlement Administrator.

24             b. Prior to filing the motion for preliminary approval and submitting this Agreement  
25 to the Court, Class Counsel shall not discuss the terms of the Agreement with any person other  
26 than Plaintiffs, Defendant's Counsel, and the Settlement Administrator. Class Counsel also agree  
27 that they will not discuss the negotiations leading to Agreement with any person other than  
28 Plaintiffs and Defendant's Counsel.

1 c. Plaintiffs acknowledge that they have not, and will not, discuss the terms of the  
2 Settlement with any persons other than Class Counsel, their spouse(s), if any, their tax  
3 preparer/accountant, and any other legal representative of Plaintiffs, prior to filing the motion  
4 for preliminary approval and submission of this Agreement to the Court. Plaintiffs further  
5 acknowledge that at no time will they disclose details of the negotiations leading to this  
6 Settlement, including information learned during or after mediation.

7 d. To the extent permitted by applicable law and in order to implement the  
8 Settlement, Plaintiffs agree that they will not make any defamatory or disparaging statements  
9 about Defendant or any Released Party. However, Plaintiffs are not precluded from submitting  
10 declarations in support of certification of the Class for purposes of this Settlement and to support  
11 their receipt of Incentive Award(s).

12 e. To the extent documents produced, formally or informally, by Defendant during  
13 the course of the Action are confidential or otherwise subject to confidentiality, Plaintiffs and  
14 Class Counsel agree to maintain the confidentiality of such materials.

15 f. Nothing in this provision will prohibit Class Counsel or Plaintiffs from seeking  
16 preliminary approval or final approval of the Settlement, or from making any  
17 disclosures as required by law.

18 31. Modification in Writing. Prior to the Court granting preliminary approval of this  
19 Agreement, this Agreement may be altered, amended, modified or waived, in whole or in  
20 part, only in a writing signed by counsel for the Parties. After the Court has granted preliminary  
21 approval of this Agreement, this Agreement may be altered, amended, modified or waived, in  
22 whole or in part,  
23 only in a writing signed by counsel for the Parties, subject to approval by the Court. Any waiver  
24 of any provision of this Agreement shall not constitute a waiver of any other provision of this  
25 Agreement unless expressly so indicated.

26 32. Ongoing Cooperation. Plaintiffs and Defendant, and each of their respective  
27 counsel, shall cooperate in good faith to execute all documents and perform all acts necessary and  
28 proper to effectuate and implement the terms of this Agreement, including but not limited to

1 drafting and submitting the motions for preliminary and final approval, and defending the  
2 Agreement and final judgment against objections and appeals. The Parties to this Agreement  
3 shall use their best efforts, including all efforts contemplated by this Agreement and any other  
4 efforts that may become necessary by order of the Court or otherwise, to effectuate this  
5 Agreement and the terms set forth herein.

6 33. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings  
7 in the Action, except such proceedings necessary to implement and complete the Agreement.  
8 Further, without further order of the Court, the Parties hereto may agree in writing to reasonable  
9 extensions of time to carry out any of the provisions of the Agreement.

10 34. Parties' Authority. The signatories hereby represent that they are fully authorized  
11 to enter into this Agreement and bind the Parties hereto to the terms and conditions hereof.

12 35. No Prior Assignments. The Parties and their counsel represent, covenant, and  
13 warrant that they have not directly or indirectly, assigned, transferred, encumbered, or  
14 purported to assign, transfer, or encumber to any person or entity any portion of any liability,  
15 claim, demand, action, cause of action, or rights herein released and discharged or herein  
16 establish and/or created, except as set forth herein.

17 36. Binding on Successors. This Agreement shall be binding and shall inure to  
18 the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs  
19 and legal representatives, including the Released Parties.

20 37. Integration/Entire Agreement. This Agreement constitutes the entire Agreement  
21 among the Parties, and no oral or written representations, warranties or  
22 inducements have been made to any Party concerning this Agreement other than the  
23 representations, warranties, and covenants contained and memorialized in such documents. All  
24 prior or contemporaneous negotiations, memoranda, agreements, understandings, and  
25 representations, whether written or oral, are expressly superseded hereby and are of no further  
26 force and effect. Each of the Parties acknowledges that they have not relied on any promise,  
27 representation or warranty, express or implied, not contained in this Agreement. No rights  
28 hereunder may be waived except in writing.

1           38.    Execution in Counterparts. This Agreement may be signed in one or more  
2 counterparts. A photographic, scanned, electronic, or facsimile copy of signatures shall be treated  
3 as an original signature for all purposes. All executed copies of this Agreement, and photocopies  
4 thereof (including facsimile or email copies of the signature pages), shall have the same force and  
5 effect and shall be as legally binding and enforceable as the original.

6           39.    Captions. The captions and section numbers in this Agreement are inserted for the  
7 reader’s convenience, and in no way define, limit, construe, or describe the scope or intent of the  
8 provisions of this Agreement.

9           40.    Computation of Time. For purposes of this Agreement, if the prescribed time  
10 period in which to complete any required or permitted action expires on a Saturday, Sunday, or  
11 legal holiday (as defined by Fed. R. Civ. P. 6(a)(6)), such time period shall be continued to the  
12 following business day. The term “days” shall mean calendar days unless otherwise noted.

13           41.    Governing Law. This Agreement shall be interpreted, construed, enforced, and  
14 administered in accordance with the laws of the State of California, without regard to otherwise  
15 applicable principles of conflicts of laws.

16           42.    Jurisdiction of the Court. The Court shall retain jurisdiction with respect to the  
17 interpretation, implementation, and enforcement of the terms of this Agreement and all orders and  
18 judgments entered in connection therewith, and the Parties and their Counsel submit to the  
19 jurisdiction of the Court for this purpose.

20           43.    Mutual Preparation. The Parties have had a full opportunity to negotiate the terms  
21 and conditions of this Agreement. Accordingly, this Agreement shall not be construed more  
22 strictly against one Party than another merely by virtue of the fact that it may have been  
23 prepared by counsel for one of the Parties, it being recognized that, because of the arms-length  
24 negotiations between the Parties, all Parties have contributed to the preparation of this  
25 Agreement.

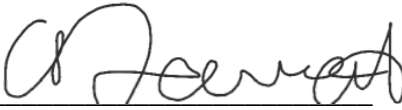
26           44.    Resolution of Disputes. The Parties agree to refer any disputes related to  
27 the drafting of the Agreement to the mediator (Michael E. Dickstein).

28           45.    Representation by Counsel. The Parties acknowledge that they have been

1 represented by counsel throughout all negotiations that preceded the execution of this Agreement,  
2 and that this Agreement has been executed with the consent and advice of counsel.

3 **IT IS SO AGREED:**

4 05/27/2024  
5 Dated: \_\_\_\_\_, 2024



Plaintiff Adrianna Jarrett

6  
7  
8 Dated: \_\_\_\_\_, 2024

\_\_\_\_\_

Plaintiff Mary Ngethe

9  
10  
11 Dated: May 22, 2024



12 Full Name: William A. Bose

13 Title: SVP Legal & Acting General Counsel

14 For Defendant [24]7.ai, Inc.

15  
16  
17 **APPROVED AS TO FORM:**

18  
19 Dated: May \_\_\_\_\_, 2024

SOMMERS SCHWARTZ, PC

20  
21 \_\_\_\_\_  
Kevin J. Stoops  
Attorneys for Plaintiffs and Proposed Class  
and Collective Members

1 represented by counsel throughout all negotiations that preceded the execution of this Agreement,  
2 and that this Agreement has been executed with the consent and advice of counsel.

3 **IT IS SO AGREED:**

4  
5 Dated: \_\_\_\_\_, 2024

\_\_\_\_\_   
Plaintiff Adrianna Jarrett

6  
7  
8 05/29/2024  
9 Dated: \_\_\_\_\_, 2024

\_\_\_\_\_   
Plaintiff Mary Ngethe

10  
11 Dated: May 22 \_\_\_\_\_, 2024

\_\_\_\_\_   
Full Name: William A. Bose

Title: SVP Legal & Acting General Counsel

For Defendant [24]7.ai, Inc.

12  
13  
14  
15  
16  
17 **APPROVED AS TO FORM:**

18  
19 Dated: May \_\_\_\_\_, 2024

SOMMERS SCHWARTZ, PC

\_\_\_\_\_   
Kevin J. Stoops  
Attorneys for Plaintiffs and Proposed Class  
and Collective Members



1 represented by counsel throughout all negotiations that preceded the execution of this Agreement,  
2 and that this Agreement has been executed with the consent and advice of counsel.

3 **IT IS SO AGREED:**

4  
5 Dated: \_\_\_\_\_, 2024

\_\_\_\_\_   
Plaintiff Adrianna Jarrett

6  
7  
8 Dated: \_\_\_\_\_, 2024

\_\_\_\_\_   
Plaintiff Mary Ngethe

9  
10  
11 Dated: May 22, 2024



12  
13 Full Name: William A. Bose

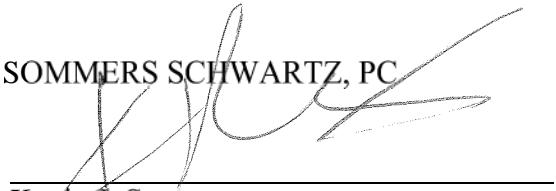
14 Title: SVP Legal & Acting General Counsel

15 For Defendant [24]7.ai, Inc.

16  
17 **APPROVED AS TO FORM:**

18  
19 Dated: May 31, 2024

SOMMERS SCHWARTZ, PC

  
\_\_\_\_\_  
Kevin J. Stoops  
Attorneys for Plaintiffs and Proposed Class  
and Collective Members

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: May 22, 2024

SPENCER FANE LLP



---

Jennifer S. Coleman  
Elaisha Nandrajog  
SPENCER FANE LLP  
Attorneys for Defendant [24]7.ai, Inc.

# Exhibit B

1 Kevin J, Stoops, Esq. (SBN 332200)  
kstoops@sommerspc.com  
2 SOMMERS SCHWARTZ, P.C.  
One Towne Square, 17th Floor  
3 Southfield, MI 48076  
Telephone: (248) 355-0300  
4 Facsimile: (248) 746-4001

5 *Attorney for Plaintiffs*  
*and Proposed Class and Collective Members*  
6

7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
9

10 **ADRIANNA JARRETT and MARY**  
11 **NGETHE** individually and on behalf of all  
others similarly situated,

12 Plaintiffs,

13 v.

14 **[24]7.AI, INC.,**

15 Defendant  
16  
17  
18

Case No.: 23-cv-00677-EMC

**DECLARATION OF KEVIN J. STOOPS IN  
SUPPORT OF PLAINTIFFS' MOTION FOR  
FINAL APPROVAL OF  
CLASS/COLLECTIVE ACTION  
SETTLEMENT**

Honorable Edward M. Chen

Complaint Filed: February 15, 2023

Trial Date: None Set

Hearing (if necessary): November 26, 2024 at  
3:30 p.m.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF KEVIN J. STOOPS**

In accordance with 28 U.S.C. § 1746, I, Kevin J. Stoops, first being duly sworn, deposes and states as follows:

1. I make this declaration in support of Plaintiffs’ Motion for Final Approval of Class/Collective Action Settlement (the “Motion for Final Approval”).

2. I am a Senior Shareholder at the law firm of Sommers Schwartz P.C., attorneys for Plaintiffs Adrianna Jarrett and Mary Ngethe in the above captioned case. I have been involved in this case from the beginning and I have personal knowledge of the matters set forth herein, based on my active participation in all material aspects of this litigation, including personal involvement in the negotiation of the Settlement.

**Experience and Background**

3. I received my JD degree, *magna cum laude*, from the Thomas M. Cooley Law School in May 2004. I am licensed to practice law in Michigan and California. Other admissions to practice include the following courts: United States Supreme Court; Sixth Circuit Court of Appeals; Tenth Circuit Court of Appeals; U.S. District Court for the Eastern District of Michigan; U.S. District Court for the Western District of Michigan; U.S. District Court for the District of Colorado; U.S. District Court for the Northern District of Alabama; U.S. District Court for the Northern District of California; U.S. District Court for the Central District of California; U.S. District Court for the Northern District of Illinois; and U.S. District Court for the Western District of Texas. I have appeared *pro hac vice* in numerous U.S. District Courts across the country including, but not limited to, the following: U.S. District Court, Middle District of Florida; U.S. District Court, Southern District of Florida; U.S. District Court, Middle District of Georgia; U.S. District Court, Western District of Kentucky; U.S. District Court, District of Nevada; U.S. District Court, Western District of New York; U.S. District Court, Eastern District of North Carolina; U.S. District Court, Western District of North Carolina; U.S. District Court, Northern District of Ohio; U.S. District Court, Eastern District of Pennsylvania; U.S. District Court, Western District of Virginia; and U.S. District Court, Western District of Washington.

1           4.       I am a Senior Shareholder in the law firm of Sommers Schwartz, P.C. in Southfield,  
2 Michigan, and have worked for the firm since 2003. I have served on the Firm's Board of Directors  
3 since 2012. *See*, Tab 1 – Attorney Biographies.

4           5.       Since obtaining my law license in 2004 I have litigated actions spanning the following  
5 practice areas: employment law (including discrimination, breach of contract, whistleblower's law and  
6 public policy claims); commercial litigation; and intellectual property (including complex trade secret,  
7 patent and trademark matters). Representative cases from these practice areas include the following:

- 8       ▪ July 2018: \$800,000 arbitration judgment in connection with minority shareholder claims  
9 (Detroit, Michigan).
- 10       ▪ December 2017: \$482,500 settlement in connection with breach of contract claims asserted by  
11 class of truck drivers (Macomb County Circuit Court, Michigan)
- 12       ▪ November 2014: \$450,000 settlement in connection with ADA, FMLA, and breach of contract  
13 claims asserted by terminated middle school principal (U.S. District Court for Western District  
14 of Michigan).
- 15       ▪ May 2012: \$1,100,000 settlement. Served as lead counsel in a complex commercial litigation  
16 case that involved claims (including breach of contract, fraud, and violation of the Michigan  
17 Sales Representative Commission Act) by my clients against a former joint venture partner.  
18 (U.S. District Court for Western District of Michigan).
- 19       ▪ February 2012: \$2.5 Million settlement. Along with my partner, Andrew Kochanowski, assisted  
20 client in obtaining a \$2.5 Million settlement in a complex business litigation dispute involving  
21 joint venture contract and trademark infringement claims. (U.S. District Court for the District  
22 of Colorado).
- 23       ▪ June 2011: \$800,000 settlement. Served as lead counsel in a complex litigation arbitration  
24 pending in Chicago, Illinois, that involved claims of oppression, breach of contract and breach  
25 of fiduciary duty by a former shareholder against a multi-million dollar business involved in the  
26 medical insurance industry.
- 27       ▪ January 2011: \$367,000 settlement. Successfully obtained a \$367,000 settlement for the  
28 conservator of a minor child in a complex probate litigation matter involving claims of  
conversion and breach of fiduciary duty against the personal representatives of decedent's  
estate. (Kalamazoo County Circuit Court, Michigan).
- July 2010: *Holbrook et al v GenTek, Inc.* 2010 WL 2697126. Obtained summary judgment in  
favor of four clients, former executives in the automotive industry, on claim that the former  
employer breached their executive bonus agreement. (U.S. District Court for the Eastern District  
of Michigan).
- March 2009: \$3.1 Million Breach of Contract Verdict. Along with partner Andrew

1 Kochanowski, obtained a breach of contract and patent infringement verdict for the Michigan  
 2 inventor of an aluminum baseball bat safety testing machine.(U.S. District Court for the Western  
 District of Michigan).

- 3 ▪ April 2006: \$2.4 million Employment Discrimination Verdict. Along with partner Joe Golden,  
 4 obtained Title VII and Elliot-Larsen national origin discrimination verdict for a public school  
 5 teacher in the U.S. District Court for the Eastern District of Michigan. (U.S. District Court for  
 the Eastern District of Michigan).

6 6. Since 2014, I have served as a member of the firm's national wage & hour litigation  
 7 practice, which currently consists of eight attorneys and five staff members. Most, if not all, of my  
 8 time is devoted to challenging illegal wage and hour practices on behalf of current and former  
 9 employees. Representative cases from my wage and hour practice include the following:

- 10 ▪ *Lucyk v. Materion, Inc.* – Lead Counsel in connection with \$1,500,000 settlement of over 850  
 11 production who claimed their employer unlawfully withheld compensation in violation of the  
 Fair Labor Standards Act's wage and hour provisions and various state laws (District Court for  
 the Northern District of Ohio).
- 12 ▪ *Kulik v. NMCI Medical Clinic* – Lead Counsel in connection with \$875,000 settlement of  
 13 approximately 100 medical assistants, physician assistants, and nurse practitioners, who claimed  
 14 their employer unlawfully withheld compensation in violation of the Fair Labor Standards  
 Act's wage and hour provisions and California state law. (District Court for the Northern District  
 of California).
- 15 ▪ *Dickerson v. Carenet Infomedia Group, Inc.* – Lead Counsel in connection with a \$684,375  
 16 settlement of over 5,000 customer service representatives who alleged off-the-clock work  
 17 related to booting up and shutting down their computer systems in violation of the Fair Labor  
 Standards Act and several state wage and hour laws. (District Court for the Western District of  
 18 Texas).
- 19 ▪ *In re: Lowe's Companies, Inc., Fair Labor Standards Act and Wage and Hour Litigation* – Lead  
 20 Counsel in connection with \$9,950,000 settlement of over 2,500 opt-in and arbitration claimant  
 hourly manager employees who alleged off-the-clock work related to opening and closing  
 21 defendant's stores and performing exterior perimeter sweeps in violation of the Fair Labor  
 Standards Act and several state wage and hour laws. (District Court for the Western District of  
 North Carolina).
- 22 ▪ *Davis v. TTEC Healthcare Solutions, Inc.* – Lead Counsel in connection with \$5,125,000  
 23 settlement of over 2,200 opt-in and arbitration claimant call center customer service  
 representatives who alleged off-the-clock work related to booting up and shutting down their  
 24 computer systems in violation of the Fair Labor Standards Act and several state wage and hour  
 laws. (District Court for the District of Colorado).
- 25 ▪ *Ealy-Simon v. Change Healthcare Operations, LLC* – Lead Counsel in connection with  
 26 \$2,500,000 settlement of over 3,500 call center customer service representatives who alleged  
 off-the-clock work related to booting up and shutting down their computer systems in violation  
 27 of the Fair Labor Standards Act and several state wage and hour laws. (District Court for the  
 Middle District of Tennessee).
- 28 ▪ *McCroskey v. Tate & Lyle Ingredients Americas, LLC* – Lead Counsel in connection with

1 \$3,900,000 settlement of approximately 1,600 Process Operators and Process Technicians who  
2 claimed their employer unlawfully withheld compensation in violation of the Fair Labor  
Standards Act's wage and hour provisions and various state laws (District Court for the Northern  
District of Illinois).

- 3 ▪ *Gabel v. Carenet Infomedia Group, Inc.* – Lead Counsel in connection with a \$618,750  
4 settlement of 764 Tele-Nurses who alleged off-the-clock work related to booting up and shutting  
5 down their computer systems in violation of the Fair Labor Standards Act and several state wage  
and hour laws. (District Court for the Western District of Texas).
- 6 ▪ *Chetwood v. T-Mobile USA, Inc.* – Lead Counsel in connection with \$2,000,000 settlement of  
7 over 7,000 call center customer service representatives who claimed their employer unlawfully  
8 withheld compensation in violation of the Fair Labor Standards Act's wage and hour provisions  
and Colorado, Missouri, New Mexico, Oregon and Washington state laws. (District Court for  
the Western District of Washington).
- 9 ▪ *Smith v. Kaiser Foundation Hospitals* – Lead Counsel in connection with \$1,475,000 settlement  
10 of approximately 474 call center Telehealth Nurses and Wellness Specialists who claimed their  
11 employer unlawfully withheld compensation in violation of the Fair Labor Standards  
Act's wage and hour provisions and California state law. (District Court for the Southern District  
of California).
- 12 ▪ *Marston v. Ashland Specialty Ingredients* – Lead Counsel in connection with \$3,900,000  
13 settlement of over 800 chemical operators who claimed their employer unlawfully withheld  
14 compensation in violation of the Fair Labor Standards Act's wage and hour provisions and  
various state laws (District Court for the Northern District of Ohio).
- 15 ▪ *Clark v. Bank of America N.A.* – Lead Counsel in connection with \$1,755,000 settlement of over  
16 1,400 call center customer service representatives who claimed their employer unlawfully  
17 withheld compensation in violation of the Fair Labor Standards Act's wage and hour provisions  
of Nevada state law (District Court for the District of Nevada).
- 18 ▪ *Bell v. CoWorx Staffing Services, LLC, et al.* – Lead Counsel in connection with \$850,00  
19 settlement of over 3,600 call center customer service representatives who claimed their  
20 employer unlawfully withheld compensation in violation of the Fair Labor Standards  
Act's wage and hour provisions and Pennsylvania and Arizona state law (District Court for the  
Eastern District of Pennsylvania).
- 21 ▪ *Banks v. Kaiser Foundation Health Plan, Inc.* – Lead Counsel in connection with \$1,650,000  
22 settlement of approximately 1,200 call center customer service representatives who claimed  
23 their employer unlawfully withheld compensation in violation of the Fair Labor Standards  
Act's wage and hour provisions and California state law. (District Court for the Central District  
of California).
- 24 ▪ *Lopez v. Stamps.com, Inc.* – Lead Counsel in connection with \$687,594 settlement of over 250  
25 call center customer service representatives who claimed their employer unlawfully withheld  
26 compensation in violation of the Fair Labor Standards Act's wage and hour provisions and  
California state law (District Court for the Central District of California).
- 27 ▪ *Purnell v. Clearview Centers, LLC* – Lead Counsel in connection with \$447,000 settlement of  
28 125 counselors who claimed their employer unlawfully withheld compensation in violation of



1 the Fair Labor Standards Act's wage and hour provisions and California state law. (District  
2 Court for the Central District of California).

- 3 ▪ *Adams v. Sitel* – Lead Counsel in connection with \$1,200,000 settlement of over 10,000 at home  
4 customer service representatives who claimed their employer unlawfully withheld  
5 compensation in violation of the Fair Labor Standards Act's wage and hour provisions and  
6 various state laws. (District Court for the Middle District of North Carolina).
- 7 ▪ *Shaulis v. Falcon Subsidiary, LLC d/b/a AxisPoint Health* – Lead Counsel in connection with  
8 \$595,000 settlement of over 450 Telehealth Nurses Telephone (handling patient telephone calls)  
9 who claimed their employer unlawfully withheld compensation in violation of the Fair Labor  
10 Standards Act's wage and hour provisions and state law. (District Court for the District of  
11 Colorado).
- 12 ▪ *Wolf v. The Permanente Medical Group* – Lead Counsel in connection with \$2,950,000  
13 settlement of over 1,700 Telephone Service Representatives (handling patient telephone calls)  
14 who claimed their employer unlawfully withheld compensation in violation of the Fair Labor  
15 Standards Act's wage and hour provisions and California state law. (District Court for the  
16 Northern District of California).
- 17 ▪ *Brown v. The Permanente Medical Group* – Lead Counsel in connection with \$6,250,000  
18 settlement of over 1,300 Advice Nurses (handling patient telephone calls) who claimed their  
19 employer unlawfully withheld compensation in violation of the Fair Labor Standards  
20 Act's wage and hour provisions and California state law. (District Court for the Northern District  
21 of California).
- 22 ▪ *Atkinson v. Teletech* – Co-Lead/Class Counsel in connection with \$3,500,000 settlement on  
23 behalf of over 20,000 home-based customer service agents (call center workers) who claimed  
24 their employer unlawfully withheld compensation in violation of the Fair Labor Standards  
25 Act's wage and hour provisions. (District Court for the Southern District of Ohio).
- 26 ▪ *Matthews v. Convergys* – Co-Lead/Class Counsel in connection with \$4,500,000 settlement in  
27 nationwide wage and hour class action involving more than 20,000 at-home call center  
28 employees who alleged they were not paid for their pre-shift computer login and boot-up time  
and for time spent working “off-the-clock” while experiencing system downtime. (U.S. District  
Court for the Western District of North Carolina).
- *Matthews v. Cloud 10* – Lead/Class Counsel in connection with \$1,100,000 settlement in  
nationwide wage and hour class action involving more than 1,000 at-home call center  
employees who alleged they were not paid for their pre-shift computer login and boot-up time  
and for time spent working “off-the-clock” while experiencing system downtime. (U.S. District  
Court for the Western District of North Carolina).
- *Tarrant v. Sutherland* – Lead/Class Counsel in connection with \$1,075,000 settlement in  
nationwide wage and hour class action involving more than 7,000 at-home call center  
employees who alleged they were not paid for their pre-shift computer login and boot-up time  
and for time spent working “off-the-clock” while experiencing system downtime. (U.S. District  
Court for the Western District of New York).

- 1     ▪ *Hall v. Higher One, Inc. et al* – Lead/Class Counsel in connection with \$964,637 settlement in  
2     nationwide wage and hour class action involving approximately 2,000 at-home call center  
3     employees who alleged they were not paid for rest breaks and their pre-shift computer login and  
4     boot-up time and for time spent working “off-the-clock” while experiencing system downtime.  
   (U.S. District Court for the Eastern District of North Carolina).
- 5     ▪ *Padan v. West* – Co-Lead/Class Counsel in nationwide wage and hour class action involving  
6     more than 5,000 opt-in brick-and-mortar call center employees alleging unpaid off-the-clock  
   time. (U.S. District Court for the District of Nevada).
- 7     ▪ *Gaffers v. Kelly Services* -- Lead/Class Counsel in nationwide wage and hour class  
8     action involving more than 8,000 at-home call center employees alleging unpaid off-the-clock  
   time. (U.S. District Court for the Eastern District of Michigan).
- 9     ▪ *Ross v. Jack Rabbit, Services* – Co-Lead/Class Counsel in nationwide wage and hour class  
10    action involving more than 1,000 roadside assistance drivers alleging that the employer failed  
11    to pay them minimum wage and overtime after improperly classifying them as independent  
   contractors. (U.S. District Court for the Western District of Kentucky).
- 12    ▪ *Jones v. Coliseum* – Co-Lead/Class Counsel in wage and hour action involving 20 individual  
13    plaintiffs alleging that the employer failed to pay them minimum wage and overtime after  
14    improperly classifying them as independent contractors. (U.S. District Court for the Eastern  
   District of Michigan).

15         7. I have been a member of numerous legal organizations throughout my career and have  
16    served in leadership roles in multiple legal organizations including serving as a Board Member for the  
17    Detroit Metropolitan Bar Association (2011-2013), and serving as a Board Member for the Litigation  
18    Section of the Michigan State Bar (2011-2015). I currently serve as a Hearing Panel Member the State  
19    Bar of Michigan’s Attorney Discipline Board and as a Case Evaluator for the Oakland County Circuit  
20    Court.

21         8. Sommers Schwartz, P.C. is Class Counsel in this case, filed on behalf of current and  
22    former hourly paid individuals engaged by [24]7.ai, Inc. (“Defendant”), during the Class Period as  
23    Customer Service Representatives (hereinafter “CSRs” or “Class Members”).

24                                 **Work Performed in Connection with this Lawsuit**

25         9. I have been involved in this litigation from the outset and have been responsible for  
26    coordinating and directing the efforts of all attorneys who performed services on behalf of Plaintiff  
27    and the putative class since this case was commenced.

28         10. The instant action was filed on February 15, 2023, asserting the following claims:

- Count I: Failure to Pay Overtime – Collective Action under the Fair Labor Standards Act (“FLSA”)
- Count II: Failure to Pay Wages – Rule 23 Nationwide Class Action for Breach of Contract
- Count III: Failure to Pay Wages – Rule 23 Nationwide Class Action for Unjust Enrichment (pled in the alternative to Count II) [ECF No. 1].

11. In early March 2023 counsel for the Parties exchanged multiple communications and held meet and confer conferences concerning Defendant’s claim that Plaintiffs should amend their Complaint to remove alleged proprietary business information contained in the Complaint.

12. To address Defendant’s concerns, Plaintiffs filed their First Amended Complaint (“FAC”) on April 18, 2023. [ECF No. 22]. The FCA contains the same claims stated in Plaintiffs’ original Complaint.

13. On April 18, 2022 Plaintiffs’ filed their pre-discovery Motion for Conditional Certification and Issuance of Court Authorized Notice to FLSA Collective. [ECF No. 21].

14. Thereafter, the Parties held multiple meet and confer conferences to discuss whether Defendant would stipulation to conditional certification and issuance of notice to the FLSA Collective.

15. On May 2, 2023, the Defendant filed an answer, which listed 24 affirmative defenses. [ECF No. 28].

16. On June 28, 2023 the Parties submitted a Joint Stipulation to Conditional Certification of FLSA Collective Action Notice. [ECF No. 40].

17. The Court rejected certain aspects of the Parties proposed Notice [ECF No. 41], requiring the Parties to file an Amended Joint Stipulation to Conditional Certification of FLSA Collective Action Notice, along with a modified proposed Notice, on July 5, 2023. [ECF No. 42].

18. The Court approved the modified Notice on July 7, 2023. [ECF No. 44].

19. On August 4, 2023 the FLSA Notice was issued to 3,897 putative FLSA collective members by professional services provider Atticus Administration, LLC.

20. During the Notice period, counsel for the Parties held multiple meet and confer conferences to discuss how to proceed with the litigation following the end of the notice period. These conferences included conversations about the scope of representative discovery, the necessity of

1 issuing subpoenas to multiple staffing companies to obtain time and pay records for members of the  
2 opt-in Collective, and the potential of exploring resolution for the FLSA opt-in Collective and/or the  
3 entire putative Class.

4 21. Ultimately, the Parties decided to submit the case to mediation following the conclusion  
5 of the FLSA Notice period.

6 22. On August 22, 2023 counsel for Defendant notified Plaintiffs' Counsel that 83  
7 individuals had been inadvertently omitted from the collective list provided to Atticus Administration,  
8 LLC.

9 23. August 29, 2023 the Parties submitted a Joint Stipulation seeking approval to issue  
10 notice to the 83 omitted individuals. [ECF No. 65].

11 24. The Court granted that request on August 31, 2023. [ECF No. 66].

12 25. Atticus Administration, LLC, issued notice to the 83 omitted individuals on September  
13 11, 2023.

14 26. At the conclusion of the original and supplemental opt-in deadlines a total of 848  
15 collective members had affirmatively opted into the case as FLSA party plaintiffs (out of the 3,980  
16 who were issued notice).

17 27. In an effort to obtain the fact discovery concerning the 848 opt-ins, including  
18 information necessary to analyze their potential damages, Defendant issued subpoenas to 14 different  
19 staffing companies on September 6, 2023.

20 28. The majority of the staffing companies responded to the subpoenas by way of  
21 producing time and pay records for the opt-ins that worked for Defendant through their agency. One  
22 of the staffing companies refused to comply with the subpoena and, instead, lodged objections.

23 29. The Parties agreed to utilize the pay and time records received by way of the subpoenas  
24 in an effort to determine the amount of potential damages owed to the opt-in collective members and  
25 putative Class.

26 30. On April 16, 2024, the Parties attended a private mediation with nationally respected  
27 wage and hour mediator Michael Dickstein of San Francisco.

28 31. After a full day, contentious mediation, the Parties were able to reach an agreement. A

1 Memorandum of Understanding was executed the same day, and, over the next few weeks, the Parties  
2 negotiated and finalized the long-form settlement agreement.

3 32. The Parties filed a Notice of Settlement on April 17, 2024. [ECF No. 83].

4 33. At all times, the Parties' settlement negotiations have been non-collusive, adversarial,  
5 at arm's length, and with the assistance of a well-respected third-party mediator.

6 34. On June 7, 2024, Plaintiffs filed their Unopposed Motion for Preliminary Approval of  
7 Class and Collective Settlement and other Related Relief (hereinafter the "Preliminary Approval  
8 Motion"). [ECF No. 86].

9 35. On June 18, 2024 the Court issued its Order re Supplemental Briefing pursuant to which  
10 it directed the Parties to address certain questions and concerns the Court had concerning the Parties'  
11 Settlement. [ECF No. 88]. Plaintiffs submitted the requested supplemental briefing on June 25, 2024.  
12 [ECF No. 89].

13 36. On July 11, 2024 the Court heard oral argument on the Preliminary Approval Motion.  
14 During the hearing the Court directed to Parties to make minor modifications to the settlement notice  
15 documents and to report back to the Court concerning the feasibility of tendering Class Member  
16 payments electronically. On July 19, 2024, in compliance with the Court's direction during the  
17 preliminary approval hearing, Plaintiffs submitted a second supplemental brief in support of the  
18 Preliminary Approval Motion. [ECF No. 93].

19 37. On July 22, 2024 the Court entered its Order granting the Preliminary Approval  
20 Motion. [ECF No. 94].

21 38. In addition to myself, the following individuals have performed services in connection  
22 with this lawsuit: Kate Milz (Sommers Schwartz - Associate); Kazmira Herberger (Sommers Schwartz  
23 - Paralegal); and Danelle Vanderbeke (Sommers Schwartz - Paralegal).

24 39. I was responsible for, performed, and oversaw, all of the following work in connection  
25 with this litigation: initial client interview, intake and document review; drafting initial pleadings  
26 including the Complaint; conferences with client, interviews of potential class members; drafting  
27 Plaintiffs' Motion for Conditional Certification; hiring the notice administrator; communicating with  
28 opposing counsel; obtaining and reviewing all discovery production; hiring a damage expert;

1 preparing damage models; legal research concerning state wage and hour laws; selecting the mediator;  
2 preparing Plaintiffs' mediation summary; attending mediation; negotiating settlement; drafting  
3 settlement documents; selecting and hiring the settlement administrator; and preparing settlement  
4 approval motions and related documents.

5 40. With respect to discovery, I was responsible for reviewing and analyzing the following  
6 materials, that consisted of hundreds of pages of documents in addition to substantial electronic data:

- 7 a. Information pertaining to the number of Class Members engaged by Defendant during  
8 the statute of limitations period applicable to the case, along with metrics related to:  
9 rate of pay; dates of engagement; hours worked per week; total weeks worked; total  
10 shifts worked; average hours worked per week; and percentage of weeks worked that  
11 equaled or exceeded 40 hours.
- 12 b. Data modeling and related statistics identifying off-the-clock work by the Class  
13 Members;
- 14 c. Voluminous time and pay records;
- 15 d. Time-keeping policies;
- 16 e. Training policies and materials;
- 17 f. Employee handbook;
- 18 g. Developing a survey that was disseminated to the opt-in collective members and  
19 analyzing the survey results/data; and
- 20 h. Documents provided to counsel by the Plaintiffs.

21 41. Additionally, the Parties' counsel conducted numerous conferences and exchanged  
22 correspondence on Plaintiff's claims, Defendant's defenses, and the scope of discovery for mediation  
23 and beyond.

24 42. I served as the primary contact with Defense Counsel in all matters relative to the case,  
25 including scheduling, discovery, negotiations, damage analysis, and all disputes. I was responsible all  
26 client contact, Court communications, settlement discussions, and all other matters related to this  
27 litigation.

28 43. I serve as Class Counsel's primary contact with Atticus Administration, LLC  
(settlement administrator), and will be primarily responsible for overseeing the handling of the claims

1 and fielding of questions from Class Members concerning the settlement, as well as the day-to-day  
2 matters relative to the settlement and payment processing.

3 44. All the above efforts, coupled with Class Counsel's ability to prosecute the class action  
4 strategy described below, contributed to reaching the settlement with Defendant that is currently  
5 before the Court for approval.

6 **Reasonableness of Settlement**

7 45. The details of the settlement are set forth in the Motion for Preliminary Approval.  
8 While the final structure of the settlement is clearly set forth in the motion, the complexities that the  
9 parties encountered in reaching this settlement were significant, to say the least.

10 46. As lead counsel, I can attest to the numerous complications that arose each step of the  
11 way in determining how to structure a settlement in this case. Identification of the compensable off-  
12 the-clock time involved extensive review of substantial document and data production and substantial  
13 legal research. I can further attest to the level of effort, expertise, dedication and creativeness of both  
14 Class Counsel and Defense Counsel in making sure that the current settlement was fair, reasonable  
15 and adequate to both sides. Had all those efforts not occurred, and the hurdles and obstacles overcome,  
16 this case, and the class wide settlement, would never have been reached.

17 47. Furthermore, Defendant asserted numerous legal and factual defenses to Plaintiffs'  
18 claims and class certification efforts including, among others, that:

- 19 a. The time Plaintiffs and the Class Members sought compensation for was not  
20 compensable under the Portal-to-Portal Act.
- 21 b. The time Plaintiffs and the Class Members sought compensation for was not  
22 compensable because it was *de minimis*.
- 23 c. Defendant will seek to compel arbitration with respect to at least one-third of the  
24 Collective/Class Members who are subject to individual arbitration agreements and  
25 class waivers.
- 26 d. Defendant did not employ the Class Members and any liability for alleged wage and  
27 hour claims must be borne by the 14 staffing companies.
- 28 e. Defendant maintains written employment policies, which prohibit all off-the-  
clock work.
- f. Defendant instructs and requires employees to report any suspected violation of  
Defendant's policies prohibiting off-the-clock work.



- 1 g. Defendant will tender Class Members to testify that they did not work off-the-  
2 clock and/or that the alleged off-the-clock work is exaggerated.
- 3 h. The putative Class Members engaged in personal activities at the beginning of their  
4 shifts.
- 5 i. Plaintiffs' allegations regarding the amount of off-the-clock time worked grossly  
6 overstates how long it takes to perform the tasks he describes.
- 7 j. The putative Class Members will not be able to prove their off-the-clock time because  
8 no records exist identifying the exact amount of time they spent each shift performing  
9 the off-the-clock duties.
- 10 k. Plaintiffs and the Class Members were paid for all worked performed.
- 11 l. The pre- and post-shift log-in and log-out activities are not compensable because the  
12 said activities were not integral and indispensable to the Class Members' principal  
13 work activities.
- 14 m. The putative Class Members will not satisfy the commonality and predominance  
15 elements to obtain Rule 23 class certification.
- 16 n. Plaintiffs and the Class Members will not be able to establish that Defendant's alleged  
17 violations were willful.
- 18 o. Plaintiff and the Class Members will not be able to recover liquidated damages.

19 48. The existence of Defendant's factual and legal arguments weighed on the parties'  
20 decision to resolve the case. While Class Counsel understandably takes issue with the viability of  
21 some of these defenses, the risks associated with the continued litigation of Plaintiffs' wage claims  
22 simply cannot be disregarded in measuring the reasonableness of the settlement. Specifically, settling  
23 this case now saves the parties from years of litigation and tremendous uncertainty as to the ultimate  
24 outcome of the litigation. Should the parties have continued to litigate the case, they would have been  
25 faced with no less than 6 to 12 months of additional formal discovery (individual class member  
26 depositions; interrogatories and requests for production of documents; electronic data production;  
27 30(b)(6) depositions). Discovery, once completed, would likely be followed by Rule 23 certification  
28 motion practice on Plaintiffs' common law claims, numerous dispositive motions, and eventually one  
or more trials. It is very likely that this litigation would extend for another two to three years and cost  
the parties \$500,000 to \$1,000,000 (or more) each in attorneys' fees and expenses.

49. To evaluate and negotiate settlement and take part in mediation, Class Counsel retained  
expert economist Eric Lietzow of Desmond, Marcello & Amster, LLP. (See Damage Expert Bio at  
Tab 2). Mr. Lietzow, with Class Counsel's assistance, prepared a time consuming and complicated



1 damage analysis of all claims at issue in this case.

2 50. The first objective of the analysis was to identify the class metrics. In connection with  
3 that task, the following metrics were ascertained based on timekeeping and pay records for the period  
4 of February 2020 through April 16, 2024:

- 5 • 3,978 Class Members;
- 6 • Average hourly rate of \$13.60; and
- 7 • 114,706 workweeks (40.8% of which were overtime weeks, 59.2% of which were non-  
8 overtime weeks).

9 51. Next the analysis identified the damages that could be recovered for each of the claims  
10 in the litigation.

11 52. In their complaint, Plaintiffs estimated a maximum of fourteen (14) to fifteen (27)  
12 minutes of off-the-clock work per day associated with the pre-, mid- and post-shift log-in and log-out  
13 activities. However, Defendant insisted that these estimations are grossly inflated, that most of the  
14 Class Members do not perform substantial, if any, off-the-clock work, and that the alleged time is not  
15 compensable under the Portal-to-Portal Act and the *de minimis* doctrine.

16 53. Affording due consideration to the facts of the case and Defendant's evidence, Class  
17 Counsel determined that reasonable estimation of the actual maximum damages equals six (6) to eight  
18 (8) minutes per day.

19 54. Utilizing the six (6) to eight (8) minute per day estimation – and extrapolating the  
20 timekeeping and pay record mediation data to extend from February 2020 (three years prior to  
21 Complaint filing) through April 16, 2024 (date of mediation) – Class Counsel and the expert  
22 economist developed a time consuming and complicated damage analysis of all claims and calculated  
23 the Defendant's maximum exposure for all claims (including overtime wages, gap time damages for  
24 straight time wages, and liquidated damages on all unpaid overtime wages) fell in the range of  
25 \$1,409,303 to \$1,891,147.

26 55. Based on the damage analysis conducted by Class Counsel and their damages expert,  
27 and in light of the factual and legal defenses identified above, the \$1,100,000 settlement equates to  
28 58.17% to 78.05% of Defendant's \$1,409,303 to \$1,891,147 maximum damage exposure.

1           56.     Consequently, there can be no question that the settlement amount is substantial,  
2 completely reasonable, and marks a fair compromise.

3           57.     The proposed release by the Class was extensively scrutinized and negotiated by the  
4 attorneys involved in this litigation and is *not* a general release of all claims. It represents a fair  
5 compromise and constitutes a fair negotiated bargain for release of claims that arise from the facts as  
6 alleged in the Complaint. Plaintiffs have reviewed and consented to the terms in the settlement  
7 agreement, has afforded full access to Class Counsel, and have signed the settlement and release.

8           58.     This settlement was the result of arm's-length negotiations, with assistance by  
9 esteemed and very experienced wage and hour mediator Michael Dickstein, conducted by experienced  
10 counsel for all parties, and reached after extensive discovery. Prior to settlement, each side  
11 independently and thoroughly investigated the claims and defenses at issue. The work performed  
12 allowed each party to intelligently, and in good faith, weigh both the risks and benefits of settlement  
13 as compared to continued litigation. These efforts culminated in a substantial settlement, which  
14 provides the Class Members with an opportunity to resolve their claims against Defendant in a  
15 meaningful way.

16           59.     Based on my past experience in litigating wage and hour cases, I fully endorse this  
17 settlement and believe that it is truly in the best interests of all parties. For all the reasons set forth  
18 herein, I believe this Court should honor the terms of the settlement and give it preliminary and final  
19 approval.

20                           **Reasonableness of Requested Settlement Administration Fees**

21           60.     The Class will be served by professional services provider Atticus Administration,  
22 LLC, in the role of Settlement Administrator. Atticus Administration, LLC has been approved by  
23 Courts across the country and is perhaps the leading settlement administrator for class actions in the  
24 country. I have used their services in numerous settlements of this nature and found their services  
25 exemplary.

26           61.     Atticus Administration, LLC's final charge for its service in this matter is \$36,744. The  
27 amount is reasonable given the number of individuals involved in the Settlement.

28                           **Notice to Class Members**

1           62.     The form of the Notice provided to the Class Members is consistent with modern best  
2 practices recently set forth by the Federal Judicial Center and was negotiated and agreed upon by all  
3 counsel. The Notice was distributed as ordered by the Court in connection with its order granting  
4 preliminary approval [ECF No. 94]. The Notice informed Class Members of, among other things, the  
5 general nature of this action, the financial and other terms of the Agreement particularly significant to  
6 the Class Members, and the general procedures and deadlines for objecting to the Agreement, or opting  
7 out of the Settlement. The Notice is written in plain English and is organized and formatted so as to  
8 be as clear as possible. It is based on the model notice forms provided by the Federal Judicial Center  
9 on its website (www.fjc.gov). The Notice encourages Class Members to contact the Settlement  
10 Administrator with any questions, and it provides telephone, mail, e-mail, and facsimile contact  
11 information for the Settlement Administrator.

12                           **Settlement Administrator Followed Best Practices in Sending Notice**

13           63.     On August 5, 2024, the Settlement Administrator issued the Notice and exclusion forms  
14 to 3,983 Class Members (3,725 via first class mail and 258 via email because no mailing address was  
15 available).

16           64.     The Settlement Administrator followed accepted best practices to ensure that the Notice  
17 reached as many Class/Collective Members as feasible. The Settlement Administrator disseminated  
18 the Court-approved Notice to 3,725 Class Members by first class mail, using the National Change of  
19 Address (“NCOA”) database to verify the accuracy of all addresses prior to sending the Notices. The  
20 Settlement Administrator also ran traces on the addresses of any returned Notices to again search for  
21 an updated address. The Settlement Administrator also maintained a toll-free telephone number,  
22 website, and an email to provide Class Members with additional information.

23                           **Class Member Response to the Settlement**

24           65.     Pursuant to the Parties’ Settlement Agreement and the Court’s Preliminary Approval  
25 Order, the opt out and objection ended on September 19, 2024 (45 days after issuance of Notice).

26           66.     As set forth in the declaration of Atticus Administration, LLC’s, Vice President of  
27 Business Development, Bryn Bridley, the Settlement Administrator did not receive any timely  
28 objections and zero opt out request forms. These facts provide substantial evidence of a fair and

1 reasonable settlement.

2 **Conclusion**

3 67. In the face of all the obstacles by way of contested issues, class discovery, thorough  
4 legal research, a comprehensive professional damage analysis, and after two mediations and lengthy  
5 settlement negotiations, in my professional and experienced opinion, the settlement before the Court  
6 of \$1,100,000 is adequate, fair and reasonable, and meets the requirements of Rule 23 and §216(b) of  
7 the FLSA. The settlement achieved substantial benefit for the Class, represents finality to a long-  
8 standing wage and hour problem facing Defendant's hourly CSRs and avoids stretching adversary  
9 proceedings years into the future, let alone the uncertainties of additional motions, trials and appeals.  
10 Ultimately, the above process produces a meaningful monetary remedy when there was none before.  
11 If not for this case, the Class Representatives' and Class Counsel's efforts, there would be no class-  
12 wide settlement, or \$1,100,000 settlement fund.

13 I declare (or certify, verify, or state) under penalty of perjury under the laws of the United  
14 States of America that the foregoing is true and correct.

15 Executed on October 8, 2024 in Southfield, Michigan.

16  
17 

18 \_\_\_\_\_  
Kevin J. Stoops

# Exhibit C

1 SOMMERS SCHWARTZ, PC  
Kevin J. Stoops (State Bar No. 332200)  
2 kstoops@sommerspc.com  
One Town Square, Suite 1700  
3 Southfield, MI 48076  
Telephone: 248-784-6613  
4 Facsimile: 248-936-2143

5 Attorneys for Plaintiffs and Proposed Class and  
Collective Members

6 SPENCER FANE LLP  
7 John V. Picone III (State Bar No. 187226)  
jpicone@spencerfane.com  
8 Jennifer S. Coleman (State Bar No. 213210)  
jcoleman@spencerfane.com  
9 Elaisha Nandrajog (State Bar No. 301798)  
emamdrajog@spencerfane.com

10 Attorneys for Defendant  
11 [24]7.ai, Inc.

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 ADRIANNA JARRETT AND MARY  
15 NGETHE, individually and on behalf of all  
16 others similarly situated,

17 Plaintiffs,

18 v.

19 [24]7.AI, INC.,

20 Defendant.

Case No.: 23-cv-00677-EMC

**DECLARATION OF BRYN BRIDLEY  
ON NOTICE DISSEMINATION AND  
SETTLEMENT ADMINISTRATION**

21  
22 I, BRYN BRIDLEY, do hereby declare as follows:

23 1. I am the Vice President of Business Development at Atticus Administration, LLC  
24 (“Atticus”), a firm providing class action and claims administration services. I have extensive  
25 experience with class action notice, claims processing, and settlement administration. I am fully  
26 familiar with the facts contained herein based upon my personal knowledge and involvement in this  
27 matter.  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2. Atticus is the Court-approved Settlement Administrator for the above-captioned action and is responsible for carrying out the terms of the *Collective and Class Action Settlement Agreement and Release* (“Settlement Agreement”) pursuant to the *Order Granting Plaintiffs’ Unopposed Motion for Preliminary Approval of Settlement, Appointment of Class Representative and Class Counsel, and Certification of Settlement Class* (“Preliminary Approval Order”) entered by the Court on July 22, 2024.

3. I submit this declaration to inform the parties and the Court of the notice and administration activities completed thus far with respect to this Settlement. This declaration describes: (i) dissemination of the *Notice of Class Action and Proposed Settlement* (“Class Notice” or “Notice”) and the results thereof, (ii) the Settlement website, (iii) Workweek disputes, exclusion requests, and objections received, (iv) estimated Settlement Payments, and (iv) administration costs.

**I. CLASS NOTICE**

4. Using the data already in its possession from the FLSA Collective Notice dispersed in September of 2023, Atticus processed the Class List through the National Change of Address (NCOA) databank maintained by the United States Postal Service (USPS) in advance of Notice dissemination. This process provides address updates for anyone who has filed change of address cards with the USPS anytime in the past four (4) years.

5. Notice was sent to all 3,983 Class Members on August 5, 2024. Of the Notices dispersed, 3,725 were sent by U.S. first class mail to Class Members whose records included address information, and 258 were sent by e-mail to Class Members for whom address information was unavailable and unlocatable. The Notice informed Class Members of the proposed Settlement and release of claims, their legal rights and options and the deadlines by which they had to act on those options, the benefits provided by the Settlement, and the Final Approval Hearing, among other things. Each Notice was accompanied by an individualized *Class Member Information Sheet* (“Info Sheet”) (collectively, “Notice Packet”) that included the recipient’s Personnel Information, eligible Workweeks, and estimated Individual Settlement Payment. A true and correct copy of the Notice Packet attached hereto as **Exhibit A**.

1           6.       Of the total Notice Packets dispersed, 683 were returned to Atticus as undeliverable.  
2 Eight (8) of the returned pieces included forwarding address information from the USPS and the  
3 Notice Packets were promptly remailed. Six hundred twenty-five (625) of the remaining 675  
4 undeliverable records were sent to a professional service for address tracing where new addresses  
5 were obtained for 320 records and were not obtained for 305 records. Notices were promptly remailed  
6 to the 320 trace addresses. Fifty (50) returned Notice records were not traced because they were  
7 returned after the Class Member response deadlines and 44 of the remailed Notice Packets were  
8 returned to Atticus a second time. These 94 undeliverable records and any others will be (re)traced  
9 prior to the distribution of monetary awards.

10           7.       In total, 3,584 or 89.98% of the Notice Packets were successfully distributed.

11           **II.       SETTLEMENT WEBSITE**

12           8.       Atticus obtained the URL [www.24-7settlement.com](http://www.24-7settlement.com) and established the content at that  
13 location as the Settlement website. The Class Notice pointed Class Members to the website for  
14 additional Settlement information. The site was launched on August 5, 2024 in conjunction with  
15 dissemination of the Notice Packets. The website includes important Settlement dates and deadlines,  
16 legal documents filed with the Court, answers to frequently asked questions about the Settlement, and  
17 Atticus' contact information. The website has been fully operational since its inception and will  
18 remain available until Settlement administration concludes. The site has received 1,327 visits to date.

19           **III.       EMPLOYEE DISPUTES, EXCLUSIONS & OBJECTIONS**

20           9.       Class Members who disagreed with the Workweek or estimated Individual Settlement  
21 Payment information included in the Notice Packet had until September 19, 2024 to postmark and  
22 return the Info Sheet to dispute the information and provide documentation to support their  
23 contention(s). Atticus received disputes from two (2) Class Members who believed they should have  
24 more eligible Workweeks. In both instances the Defendant reviewed the dispute information and  
25 confirmed that the employees' original Workweek information was correct.

26           10.       Class Members who had not previously opted-in ("Collective Opt-Ins") and who did  
27 not wish to participate in the Settlement had until September 19, 2024 to postmark a request exclusion  
28



1 in compliance with the instructions provided in the Notice. Class Members who wished to object to  
2 the Settlement's terms also had until September 19, 2024 to ensure that the Settlement Administrator  
3 had received their objection(s). Atticus did not receive any exclusion requests or Settlement  
4 objections.

5 **IV. ESTIMATED CLASS MEMBER PAYMENTS**

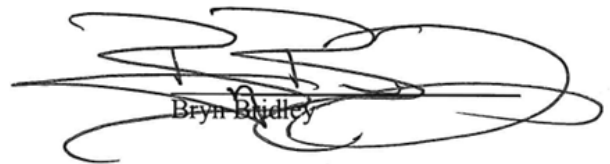
6 11. The Notice Packet provided each Class Member with their estimated pro rata share of  
7 the Net Settlement Amount based on the eligible Workweeks worked during the Class Period and  
8 assuming that 100% of the Settlement Class would elect to participate. To calculate the estimated  
9 amounts, Atticus reduced the \$1,100,000 Gross Settlement Amount by \$10,000 in Plaintiffs'  
10 Incentive Awards, \$366,630 Class Counsel's in attorneys' fees, and \$40,000 in attorneys' costs as  
11 contemplated by the Settlement Agreement, as well as \$36,744 in actual administration costs, to  
12 establish the Net Settlement Amount of \$646,626 used to calculate estimated Individual Settlement  
13 Payment amounts for inclusion in the Notice Packet. Pursuant to the Settlement's terms, \$484,969.50  
14 of the estimated Net Settlement Amount was allocated to FLSA payments and \$161,656.50 was  
15 allocated to Rule 23 payments. Overall, estimated gross amounts ranged from \$24.60 to \$1,737.41  
16 with an average estimated monetary award of \$162.35 and a median amount of \$70.12.

17 12. Upon the Court's entry of a final approval Order, Atticus will finalize the actual Class  
18 Member awards accounting for the gross-to-net payments approved by the Court.

19 **V. SETTLEMENT ADMINISTRATION COST**

20 13. Atticus has agreed to administer the terms of this settlement for \$36,744.

21  
22 **I affirm under penalty of perjury under the laws of the United States that the foregoing**  
23 **is true and correct and executed on this 7th day of October 2024 in St. Paul, Minnesota.**

24  
25  
26   
27  
28

**EXHIBIT A**

JARRETT V [24].7 SETTLEMENT  
C/O ATTICUS ADMINISTRATION  
PO BOX 64053  
SAINT PAUL MN 55164



<<barcode text>>

CLAIMANT ID: <<Claimant ID>> <<SEQ ID>>  
<<FIRST NAME>> <<LAST NAME>>  
<<ADDRESS>> <<ADDRESS 2>>  
<<CITY>> <<STATE>> << ZIP>>

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ADRIANNA JARRETT and MARY NGETHE,  
individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

[24]7.AI, INC.,

Defendant.

CASE NO. 23-cv-00677-EMC

NOTICE OF CLASS ACTION AND  
PROPOSED SETTLEMENT

**TO:** All current and former hourly-paid individuals engaged by [24]7.ai, Inc. as Customer Service Representatives between February 15, 2020 and June 15, 2024. (the “Class Member(s)”).

**IF YOU ARE A MEMBER OF THIS CLASS OF PERSONS, YOU SHOULD READ THIS NOTICE CAREFULLY BECAUSE IT WILL AFFECT YOUR LEGAL RIGHTS AND YOU MAY BE ENTITLED TO A MONETARY AWARD. YOUR ESTIMATED MONETARY AWARD IS: \$<<estimated award>>**

A settlement (the “Settlement”) has been proposed in the lawsuit referenced above, pending in United States District Court for the Northern District of California (the “Court”), titled *Adrianna Jarrett, et al. v. [24]7.ai, Inc.*, Case No. 23-cv-00677-EMC (the “Action”). If the Court gives final approval to the Settlement, Defendant [24]7.ai Inc., (“Defendant”), will provide each Class Member with a payment based on the number of weeks that they were engaged with Defendant as described in this Notice.

Here is a summary of your rights and options, which are described in more detail later in this document. If you have any questions, please contact the Settlement Administrator, [24]7 Settlement c/o Atticus Administration PO Box 64053 Saint Paul, MN 55164.

**1. GENERAL INFORMATION**

The United States District Court for the Northern District of California preliminarily approved a settlement of the collective and class action claims asserted by Plaintiffs Adrianna Jarrett and Mary Ngethe (collectively, “Plaintiffs”) in the Action. If you are or were an individual engaged with Defendant on an hourly basis (i.e., were non-exempt) and holding the position of Customer Service Representative between February 15, 2020 and June 15, 2024, you are eligible to receive payment from the Settlement.

**2. YOUR ESTIMATED PAYMENT INFORMATION**

According to available payroll records, you are a Class Member who worked approximately <<workweeks>> Workweeks during the Class Period. Only weeks worked by you during the Class Period may be considered compensable Workweeks under the Settlement. The Class Period is February 15, 2020 through June 15, 2024. Based on information currently available we estimate your total share of the Settlement will be approximately <<\$estimated award>>. This is only an estimate. The amount you ultimately receive as part of the Settlement may increase or decrease in accordance with the terms of the Settlement and the Court’s orders.

\*\*\*Defendant respects your right to participate in this Settlement and will take no adverse action against you should you accept payment under the Settlement\*\*\*

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		
<b>GET A PAYMENT</b>	If you do nothing, you will automatically receive a payment if the Settlement is finally approved by Court.	N/A
<b>EXCLUDE YOURSELF/OPT OUT REQUEST</b>	If you have not previously submitted an opt-in consent form and joined this Action as a FLSA opt-in, and you wish to exclude yourself from the Settlement, you must submit to the Settlement Administrator a valid Opt Out Request. If you exclude yourself from the Settlement, you will not receive a payment under the Settlement. Detailed instructions for this option are set forth in Section 17 below.	Deadline: September 19, 2024
<b>OBJECT AND GO TO THE FINAL APPROVAL HEARING</b>	<p>If you have not previously submitted an opt-in consent form and joined this Action as a FLSA opt-in, and you wish to object to the Settlement, you must submit your Objection (i.e., why you do not believe the Settlement is fair or adequate) to the Settlement Administrator. Submitting an objection does not exclude you from the Settlement. Detailed instructions for this option are set forth in Section 18 below.</p> <p>The Court will hold a “Final Approval Hearing” to consider the Settlement, the request for Attorneys’ Fees and litigation expenses by the attorneys representing the Class in the Action and the Representative Plaintiffs’ request for Incentive Awards for bringing and maintaining this action.</p> <p>You may, but are not required to, speak at the Final Approval Hearing about any objection to the Settlement that you submitted. If you intend to speak at the Final Approval Hearing, you must also provide a “Notice of Intention to Appear,” indicating your intention to do so.</p>	<p>Deadline: September 19, 2024</p> <p>Final Approval Hearing Date: November 14, 2024</p>

As noted above, the Court in charge of this Action has preliminarily approved the Settlement and must decide whether to give final approval to the Settlement. The relief provided to Class Members will only be provided if the Court gives final approval to the Settlement and, if there are any appeals, after the appeals are resolved in favor of the Settlement. ***Please be patient.***

**WHAT THIS NOTICE CONTAINS**

BACKGROUND INFORMATION.....4

- 1. Why did I get this Notice?
- 2. What is this lawsuit about?
- 3. Why is this a class action?
- 4. Why is there a settlement?
- 5. How do I know if I am part of the Settlement?
- 6. I'm still not sure if I am included.

THE PROPOSED SETTLEMENT.....5

- 7. What relief does the Settlement provide to the Class Members?

PAYMENT TO THE CLASS.....6-7

- 8. How can I get a payment?
- 9. When will I get a payment?
- 10. What if I disagree with the calculation regarding my estimated settlement payment?
- 11. If I receive a settlement payment will I have to pay taxes on it?
- 12. No retaliation or discrimination

THE LAWYERS IN THIS ACTION.....7

- 13. Do I have a lawyer in this Action?
- 14. How will the lawyers be paid?
- 15. Will the Plaintiffs receive any compensation for their efforts in bringing and maintaining this Action?

RELEASE OF CLAIMS.....7-8

- 16. What am I giving up to obtain relief under the Settlement?

HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT.....9

- 17. How do I exclude myself from the Settlement?

HOW TO OBJECT TO THE SETTLEMENT.....9-10

- 18. How do I tell the Court that I do not like the Settlement?
- 19. What is the difference between excluding myself and objecting to the Settlement?

FINAL APPROVAL HEARING.....10

- 20. What is the Final Approval Hearing?
- 21. When and where is the Final Approval Hearing?
- 22. May I speak at the Final Approval Hearing?

ADDITIONAL INFORMATION.....11

- 23. How do I get more information?
- 24. What if my address or other information has changed?

## BACKGROUND INFORMATION

### 1. Why did I receive this Notice?

You received this Notice because a Settlement has been reached in this Action. According to available records, you are a member of the Settlement Class and may be eligible for the relief below.

This Notice explains the nature of the Action, the general terms of the proposed Settlement, and your legal rights and obligations. To obtain more information about the Settlement, including information about how you can see a copy of the Settlement Agreement, see Section 23 below.

### 2. What is this lawsuit about?

The Action alleges that Defendant failed to pay overtime and straight pay wages and is thus subject to damages under state common law and federal law.

Defendant denies Plaintiffs' allegations in their entirety. Defendant contends that it paid all overtime wages and straight pay wages owed and complied with all other requirements of state and federal law. Defendant contends that its affirmative defenses to this Action may otherwise prevent or limit Plaintiffs' collective and/or class claims.

**The issuance of this Notice is not an expression of the Court's opinion on the merits or the lack of merits of the Representative Plaintiffs' claims in the Action.**

For information about how to learn about what has happened in this Action to date, please see Section 23 below.

### 3. Why is this a collective and/or class action?

In a collective and/or class action lawsuit, "Representative Plaintiffs" (in this Action, Adrianna Jarrett and Mary Ngethe) sue on behalf of other people who allegedly have similar claims. For purposes of this proposed Settlement, one court will resolve the issues for all Class Members. The company sued in this Action, [24]7.ai, Inc., is called the Defendant.

### 4. Why is there a settlement?

The Representative Plaintiffs made claims against Defendant. Defendant denies that it has done anything wrong or illegal and admits no liability. **The Court has not decided whether the Representative Plaintiffs or the Defendant should win in this Action. Instead, both sides have agreed to a Settlement. The Parties have chosen to settle the Action at this time to avoid additional costs associated with further litigation and/or trial, as well as to obtain finality on the Parties' dispute.**

### 5. How do I know if I am part of the Settlement?

The Court has decided that everyone who fits the following description is a Class Member for purposes of the proposed Settlement: all current and former hourly-paid individuals engaged by Defendant as Customer Service Representatives between February 15, 2020 and June 15, 2024.

### 6. I'm still not sure if I am included.

If you are still not sure whether you are included, you can write to the Settlement Administrator or Class Counsel for help. The address for the Settlement Administrator is: [24]7 Settlement c/o Atticus Administration PO Box 64053 Saint Paul, MN 55164.

Class Counsel may be contacted as follows:

SOMMERS SCHWARTZ, P.C.

Kevin J. Stoops

[kstoops@sommerspc.com](mailto:kstoops@sommerspc.com)

One Towne Square, Suite 1700

Southfield, Michigan 48076

(248) 355-0300

## THE PROPOSED SETTLEMENT

### 7. What relief does the Settlement provide to the Class Members?

Defendant has agreed to fund a settlement with a maximum value of \$1,100,000. This settlement amount will be used to pay the claims of the Class Members, and the following amounts requested by Plaintiffs and subject to Court approval: the fees of providing notice to the Class and administering the Settlement (up to \$40,000); to pay any awards by the Court for Attorneys' Fees (up to \$366,630) and litigation expenses (up to \$40,000) to Plaintiffs' counsel; and any incentive award the Court awards to the Representative Plaintiffs (up to \$5,000 each). The estimated Net Settlement Amount to be used to pay the claims of Class Members is approximately \$643,370.

**Your estimated Settlement Payment is stated on the Workweek Dispute Form included with this Notice.** Your estimated payment was calculated using payroll and employee records available to Defendant. Individual Settlement Payments will be calculated and apportioned as follows:

- (a) The "Net Settlement Amount" shall be calculated by subtracting the payments to Class Counsel, the Representative Plaintiffs, and the Settlement Administrator.
- (b) The Net Settlement Amount shall be split into two buckets: 1) the "FLSA Settlement Payment" bucket, which shall consist of 75% of the Net Settlement Amount; and 2) the "Rule 23 Settlement Payment" bucket, which shall consist of 25% of the Net Settlement Amount.
- (c) After splitting the into the "FLSA Settlement Payment" bucket and the "Rule 23 Settlement Payment" bucket, Individual FLSA and Rule 23 Settlement Payments will be calculated from the amounts in each bucket as follows:
  1. The Settlement Administrator will use the number of Workweek(s) worked by Settlement Class Members during the Class Period, which will be determined based on the information in the Class List Defendant provides to the Settlement Administrator.
  2. Each of the Settlement Class Members is eligible to receive a *pro rata* share of the FLSA Settlement Payment bucket and the Rule 23 Settlement Payment bucket based on their share of the total number of Workweeks during the Class Period.
  3. The value of a single Workweek during the Class Period shall be determined by dividing the FLSA Settlement Payment bucket and the Rule 23 Settlement Payment bucket by the total number of Workweeks during the Class Period worked by all Settlement Class Members. Each Settlement Class Member shall be allocated a gross payment equal to their individual Workweeks during the Class Period multiplied by the value of a single Workweek during the Class Period.
  4. The individual FLSA Settlement Payments and Rule 23 Settlement Payments (collectively, Individual Settlement Payments) shall be allocated as follows: (i) fifty percent (50%) of each Settlement Class Member's Individual Settlement Payments will be allocated to settlement of wage claims (the "Wage Portions"); and (ii) the remaining fifty percent (50%) will be allocated to liquidated damages, penalties and interest. The Settlement Administrator will withhold the Settlement Class Members' share of taxes and withholdings with respect to the wage portion of the Individual Settlement Payments, and issue checks to Settlement Class Members for their net of the FLSA Settlement Payment and Rule 23 Settlement Payment, provided that no Settlement Class Member shall receive an Individual Settlement Payment of less than Twenty Dollars and Zero Cents (\$20.00). The wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The portion allocated to liquidated damages, penalties and interest (i.e., Non-Wage Portions) are not subject to wage withholdings and will be reported in IRS 1099 Forms (if required).



## PAYMENT TO THE CLASS

### 8. How can I get a payment?

If you wish to remain a Class Member and obtain any share of the Settlement to which you may be entitled, then you do not have to do anything and you will automatically receive your Individual Settlement Payments in the mail if the Court approves the proposed Settlement. You are not required to go to court or pay anything to the lawyers in this Action. The Individual Settlement Payment you will receive will be a full and final settlement of your Released Claims described below.

### 9. When will I get a payment?

As described in Sections 20 and 21, the Court will hold a hearing on November 14, 2024 to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. *Please be patient.*

### 10. What if I disagree with Defendant's calculation regarding my estimated Settlement Payment?

Settlement Class Members will have the right to challenge the number of Workweeks allocated to them. Class Members shall have until the Objection Period to submit to the Settlement Administrator their dispute in writing ("Workweek Dispute") at the address indicated on the Class Notice. Each Workweek Dispute must: (i) contain the name and case number of the Action; (ii) contain the full name, address, and telephone number of the Class Member; (iii) be signed by the Class Member; (iv) clearly state that the Class Member disputes of the number of Workweeks credited to them and what they contend are the correct numbers to be credited to them; (v) attach any documentation that they have to support the dispute; and (vi) be emailed, postmarked or fax stamped on or before the Objection Period and returned to the Settlement Administrator at the email address, mailing address or fax number specified in the Class Notice. The Settlement Administrator will inform Class Counsel and Defendant's Counsel in writing of any timely submitted Workweeks Disputes. Defendant shall have the right to respond to any Workweek Dispute submitted by any Class Members within ten (10) business days of being informed of a timely submitted Workweek Dispute and shall cooperate in providing the Settlement Administrator with information to determine all such Workweek Disputes. The Settlement Administrator will determine all such Workweek Disputes following Defendant's opportunity to respond. Subject to Court approval, Workweek Disputes will be resolved without hearing by the Settlement Administrator, who will make a decision based on Defendant's records and any documents or other information presented by the Class Member making the Workweek Dispute, Class Counsel, or Defendant.

You can submit the Workweek Dispute Form by mail to the Settlement Administrator at: [24]7 Settlement c/o Atticus Administration PO Box 64053 Saint Paul, MN 55164. Alternatively, you may submit your dispute form via facsimile to 1-888-326-6411 or you can submit your dispute to the Settlement Administrator via e-mail to the following e-mail address: [24-7Settlement@atticusadmin.com](mailto:24-7Settlement@atticusadmin.com).

### 11. If I receive a Settlement Payment will I have to pay taxes on it?

The individual FLSA Settlement Payments and Rule 23 Settlement Payments (collectively, Individual Settlement Payments) shall be allocated as follows: (i) fifty percent (50%) of each Settlement Class Member's Individual Settlement Payments will be allocated to settlement of wage claims (the "Wage Portions"); and (ii) the remaining fifty percent (50%) will be allocated to liquidated damages, penalties and interest. The Settlement Administrator will withhold the Settlement Class Members' share of taxes and withholdings with respect to the wage portion of the Individual Settlement Payments, and issue checks to Settlement Class Members for their net of the FLSA Settlement Payment and Rule 23 Settlement Payment, provided that no Settlement Class Member shall receive an Individual Settlement Payment of less than

Twenty Dollars and Zero Cents (\$20.00). The wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The portion allocated to liquidated damages, penalties and interest (i.e., Non-Wage Portions) are not subject to wage withholdings and will be reported in IRS 1099 Forms (if required).

**12. No retaliation or discrimination.**

Defendant respects your right to participate in this lawsuit and will take no adverse action against you should you accept payment under the Settlement.

**THE LAWYERS IN THIS ACTION**

**13. Do I have a lawyer in this Action?**

The Court has preliminarily approved Sommers Schwartz, P.C. (“Class Counsel”) to represent the interests of all Class Members. You will not be separately charged for these lawyers. If you have a question about the Settlement, you may contact Class Counsel as follows:

SOMMERS SCHWARTZ, P.C.  
Kevin J. Stoops  
[kstoops@sommerspc.com](mailto:kstoops@sommerspc.com)  
One Towne Square, Suite 1700  
Southfield, Michigan 48076  
(248) 355-0300

Alternatively, if you want to be represented by your own lawyer, you may hire one at your own expense.

**14. How will the lawyers be paid?**

Defendant has agreed to pay Class Counsel’s attorney’s fees up to \$366,630 and litigation of up to \$40,000 for their services in litigating the Action, subject to approval by the Court. You will not be required to pay any Attorneys’ Fees or costs.

**15. Will the Plaintiffs receive any compensation for their efforts in bringing and maintaining this Action?**

Plaintiffs Adrianna Jarrett and Mary Ngethe will request incentive awards of up to \$5,000 each for their services as class representatives and their efforts in bringing and maintaining this action. The Court will make the final decision as to the amount to be paid to the Plaintiffs.

**RELEASE OF ALL CLAIMS**

**16. What am I giving up to obtain relief under the Settlement?**

If the Court approves the proposed Settlement, unless you exclude yourself from the Settlement, you will be releasing your claims against Defendant. The claims include the following:

“Settled FLSA Claims” means and any all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and description whatsoever, whether known or unknown, that arise during the Class Period and that are based on or are reasonably related to claims for unpaid wages (including but not limited to claims for regular wage, overtime and gap time) under the FLSA. Settled FLSA claims exclude claims that are: (i) not based on or reasonably related to the claims asserted in the Action; and/or (ii) expressly non-waivable under the law, including claims for retaliation, wrongful termination, unemployment, disability, worker’s compensation; and/or (iii) outside of the Class Period.

“Settled Rule 23 Class Claims” means and any all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and description whatsoever, whether known or unknown, that arise during the Class Period and that are based on or are reasonably related to claims under applicable state and common law wage theories (including but not limited to claims for breach of contract and/or unjust enrichment). Settled Rule 23 Class claims exclude claims that are: (i) not based on or

reasonably related to the claims asserted in the Action; and/or (ii) expressly non-waivable under the law, including claims for retaliation, wrongful termination, unemployment, disability, worker's compensation; and/or (iii) outside of the Class Period.

As of the Effective Date<sup>1</sup> and full funding of the Gross Settlement Amount,<sup>2</sup> all Settlement Class Members<sup>3</sup> shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all Settled FLSA Claims and Settled Rule 23 Class Claims during the Class Period against any and all Released Parties.

The Released Parties shall mean Defendant [24]7.ai, Inc. and each of its parent companies, subsidiaries, affiliates, assigns, predecessors, successors, owners (whether managers, partners, shareholders), directors, employees (current and former), board members and agents.

Release Language on FLSA Claim Settlement Checks. The Settlement Administrator shall include the following release language on the back of each FLSA Claim settlement check, as appropriate:

- a. For Collective Opt-Ins: "This check is your FLSA Settlement Payment in connection with the court-approved collective and class action Settlement in the Action entitled *Jarrett et al v. [24]7.ai, Inc.*, Case No. 23-cv-00677-EMC, pending in the United States District Court, Northern District of California (the "Action"). You previously submitted a consent to join form and affirmatively joined the action as a FLSA opt-in. By signing or cashing your check, you acknowledge that you are participating in the Settlement and that you are releasing the Settled FLSA Claims against the Released Parties (as those terms are defined in the Class Notice)."
- b. For Rule 23 Members: "This check is your FLSA Settlement Payment in connection with the court-approved collective and class action Settlement in the Action entitled *Jarrett et al v. [24]7.ai, Inc.*, Case No. 23-cv-00677-EMC, pending in the United States District Court, Northern District of California, (the "Action"). By signing or cashing this check,

---

<sup>1</sup> "Effective Date" means 1) if there are no objections to the Settlement, the first business day following the last of the following occurrences: (i) the date the Court enters the Final Approval Order and Judgment; (ii) if there is an objection, but no appeal is taken from the Final Approval Order and Judgment, thirty-one (31) calendar days after the Court enters the Final Approval Order and Judgment; or (iii) if an appeal is taken from the Final Approval Order and Judgment, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final and complete judicial approval of this Agreement in its entirety, with no further challenge to the Agreement being possible.

<sup>2</sup> "Gross Settlement Amount" means a total payment of One Million and One Hundred Thousand Dollars and Zero Cents (\$1,100,000.00) payable by Defendant under this Agreement. The Gross Settlement Amount includes all Attorneys' Fees, Attorney's Costs, Settlement Administration Costs, Incentive Award(s) to Plaintiffs, all employee taxes for the wage portion of any Individual Settlement Payment(s), and the Net Settlement Amount to Class Members. In no event shall Defendant be required to pay any amounts above the Gross Settlement Amount to effectuate this Agreement, except that Defendant shall pay all employer side taxes separately and in addition to the Gross Settlement Amount.

<sup>3</sup> Comprised of: (i) the Collective Opt-Ins (*i.e.*, the 848 non-exempt CSRs, including Plaintiffs, who joined this Action by submitting opt-in consent forms (available at Dkt. Nos. 1-3; 1-4; 50-1; 51-1; 52-1; 53-1; 54-1; 55-1; 56-1; 57-1; 58-1; 59-1; 60-1; 61-1; 62-1; 63-1; 64-1; 67-1; 68-1; 70-1; 71-1; 72-1; 73-1; 74-1; 75-1; 76-1) following Court approval of pre-discovery conditional certification in this Action pursuant to 29 U.S.C. § 216(b)); and (ii) the 3,133 non-exempt CSRs who were engaged by Defendant during the Class Period who do not timely file Opt Out Requests and consent to the terms of the Settlement by negotiating checks in the gross amount of their Individual Settlement Payments.

you are consenting to join the Action and are fully, finally, and forever releasing, settling, compromising, relinquishing, and discharging the Released Parties from any and all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and description whatsoever, whether known or unknown, that arise during the period of February 15, 2020 through June 15, 2024 and that are based on or are reasonably related to claims for unpaid wages (including but not limited to claims for regular wages, overtime, and gap time) under the FLSA. By signing or cashing your check, you acknowledge that you have read the Class Notice, that you consent to join the Action as a FLSA opt-in and participate in the Settlement, and that you are releasing the Settled FLSA Claims against the Released Parties (as those terms are defined in the Class Notice).”

Release Language on Rule 23 Settlement Checks. The Settlement Administrator shall include the following release language on the back of each Rule 23 Settlement check:

“This check is your Rule 23 Settlement Payment in connection with the court-approved collective and class action Settlement in the Action entitled *Jarrett et al v. [24]7.ai, Inc.*, Case No. 23-cv-00677-EMC, pending in the United States District Court, Northern District of California, (the “Action”). By signing or cashing this check, you are fully, finally, and forever releasing, settling, compromising, relinquishing, and discharging the Released Parties from any and all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and description whatsoever, whether known or unknown, that arise during the period of February 15, 2020 through June 15, 2024, and that are based on or are reasonably related to claims under applicable state and common law wage theories (including but not limited to claims for breach of contract and/or unjust enrichment). By signing or cashing your check, you acknowledge that you have read the Class Notice, that you consent to participate in the Settlement, and that you are releasing the Settled Rule 23 Class Claims against the Released Parties (as those terms are defined in the Class Notice).”

## **HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT**

### **17. How do I exclude myself from the Settlement?**

If you have not previously submitted an opt-in consent form and joined this Action as a FLSA opt-in, you may exclude yourself from the Class and the Settlement (*i.e.* “opt out”) by submitting an Opt Out Request. “Opt Out Request” means a request by a Rule 23 Member to be excluded from the Settlement. Each “Opt Out Request” must: (i) contain the name and case number of the Action; (ii) contain the full name, address, and telephone number of the Rule 23 Member requesting exclusion from the Settlement; (iii) be signed by the Rule 23 Member; (iv) contain a clear written statement indicating that the Rule 23 Member seeks exclusion from the Settlement; and (v) be emailed, postmarked or fax stamped on or before the Objection Period and returned to the Settlement Administrator at the email address, mailing address or fax number specified in the Class Notice. Specifically, your Opt Out Request must be received by September 19, 2024.

## **HOW TO OBJECT TO THE SETTLEMENT**

### **18. How do I tell the Court that I do not like the Settlement?**

If you do not exclude yourself from the Settlement, you can object to the terms of the Settlement before the Court grants final approval. You can ask the Court to deny approval by filing an objection. You **cannot** ask the Court to order a larger settlement; the Court can only approve or deny the Settlement.

You may object to the Settlement in writing. You may also appear at the Fairness Hearing at the date, time and location stated in Section 21 below.

A valid “Objection” means: an objection to the Settlement that a Rule 23 Member submits in writing to the Settlement Administrator. Each Objection must: (i) contain the name and case number of the Action; (ii) contain the full name, address, and telephone number of the objecting Rule 23 Member; (iii) be signed by the Rule 23 Member; (iv) contain a written statement of all grounds for the Objection accompanied by any legal support for such Objection; (v) contain copies of any papers, briefs, or other documents upon which the Objection is based; and (vi) be emailed, postmarked or fax stamped on or before the Objection Period (as defined below) and returned to the Settlement Administrator at the email address, mailing address and/or fax number specified in the Class Notice. **If a Rule 23 Member submits both an Objection and an Opt Out Request, he or she will be excluded from the Settlement and the Objection will not be considered.** Specifically, to be valid your objection must be received by September 19, 2024.

If you make an objection and the Court disagrees with your objection and grants final approval of the Settlement, you will have released all Released Claims against Released Parties as described in Section 16 above and will receive your Individual Settlement Payment.

**IF YOU DO NOT TIMELY MAKE YOUR OBJECTION, YOU WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS.**

**19. What is the difference between excluding myself and objecting to the Settlement?**

Objecting is telling the Court that you don’t like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don’t want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

**FINAL APPROVAL HEARING**

**20. What is the Final Approval Hearing?**

The Court has preliminarily approved the Settlement, meaning only that it concluded that there is sufficient evidence to suggest that the Agreement falls within the range of possible approval as fair, reasonable, and adequate, and that the final determination of these issues will be made at the Final Approval Hearing. The purpose of the Final Approval Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, and adequate, and in the best interests of the Settlement Class; to consider the award of Attorneys’ Fees and expenses to Class Counsel and to consider the request for incentive awards for Plaintiffs.

**21. When and where is the Final Approval Hearing?**

On November 14, 2024, at 1:30 p.m., a hearing will be held to determine final approval of the proposed Settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the proposed Settlement’s final approval. The hearing will take place before the Honorable Edward M. Chen in Courtroom 4, 17<sup>th</sup> Floor of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California 94102. The hearing may be conducted virtually (e.g. via Zoom) at the Court’s discretion. The hearing may be postponed to a different date, time or location without notice. It is not necessary for you to appear at this hearing unless you want to object to the Settlement. If you intend to speak at the Final Approval Hearing, you must also provide a “Notice of Intention to Appear,” indicating your intention to do so.

**22. May I speak at the hearing?**

At the hearing, the Court will be available to hear any objections and arguments concerning final approval of the Settlement. You may attend, but you do not have to.

**ADDITIONAL INFORMATION**

**23. How do I get more information?**

To see a copy of the Settlement Agreement, the Court's Preliminary Approval Order, and/or the Complaint filed in the Action, please visit the following website [www.24-7Settlement.com](http://www.24-7Settlement.com), or the United States District Court for the Northern District of California Court Clerk's Office during regular business hours at [www.cand.uscourts.gov](http://www.cand.uscourts.gov).

**24. What if my address or other information has changed?**

It is your responsibility to inform the Settlement Administrator of your updated information. You may make corrections to your address by sending in the Workweek Dispute Form. Alternatively, you may contact the Settlement Administrator at: [24]7 Settlement c/o Atticus Administration PO Box 64053 Saint Paul, MN 55164.

**DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE CLASS LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.**





**JARRETT v. [24]7.AI, INC.**  
**U.S. District Court for the Northern District of California**  
**No. 23-cv-00677-EMC**

**CLASS ACTION SETTLEMENT**

**CLASS MEMBER INFORMATION SHEET: CONTACT AND PERSONNEL INFORMATION**

IF YOU WANT TO RECEIVE A SHARE OF THE SETTLEMENT OF THE *Jarrett v. [24]7.ai, Inc.* CLASS ACTION, REVIEW THE INFORMATION BELOW TO CONFIRM THAT YOUR CONTACT AND PERSONNEL INFORMATION IS CORRECT.

IF THIS INFORMATION IS ACCURATE, DO NOT RETURN THIS SHEET: YOU AUTOMATICALLY WILL RECEIVE YOUR INDIVIDUAL SETTLEMENT PAYMENTS UNLESS YOU SUBMIT AN OPT OUT REQUEST FORM.

IF THE INFORMATION BELOW IS NOT CORRECT, PROVIDE CORRECTED INFORMATION, DATE AND SIGN THIS FORM (AT THE BOTTOM OF THE PAGE), AND MAIL IT, POSTMARKED **NOT LATER THAN SEPTEMBER 19, 2024** TO:

24.7 Settlement Administrator  
c/o Atticus Administration  
PO Box 64053  
St. Paul, MN 55164  
Email: [24-7Settlement@atticusadmin.com](mailto:24-7Settlement@atticusadmin.com)

**PERSONNEL INFORMATION FOR CLASS MEMBER RECEIVING THIS NOTICE**

1. Your Name:
2. Your Mailing Address:
3. Your Social Security Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_
4. Your Email Address:
5. Total number of Workweeks you were engaged with Defendant [24]7.ai, Inc. as a Customer Service Representative between February 15, 2020 and June 15, 2024 (your "Workweeks"):
6. Your estimated total Individual Settlement Payment:

IF ANY OF THE INFORMATION SHOWN ABOVE (NUMBERS 1 TO 5) IS NOT CORRECT, PLEASE INDICATE BELOW. IF YOU ARE DISPUTING ANY INFORMATION IN NUMBERS 4 TO 5 SHOWN ABOVE, STATE WHAT YOU BELIEVE TO BE THE CORRECT INFORMATION AND ATTACH ANY DOCUMENTATION THAT SUPPORTS YOUR CONTENTION.

<b>Corrected Information</b>	
1. Your <i>corrected</i> name:	_____
2. Your <i>corrected or missing</i> mailing address (include telephone number, starting with area code):	_____ _____ _____
3. <i>Corrected or missing</i> Social Security number:	__ - __ - ____
4. <i>Corrected or missing</i> email address	_____
5. <i>Corrected</i> number of Workweeks you were engaged with Defendant [24]7.ai, Inc. as a Customer Service Representative between February 15, 2020 and June 15, 2024 (your "Work Weeks"):	_____

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: \_\_\_\_\_, 2024.

\_\_\_\_\_  
(Signature)

**PLEASE REMEMBER: IT IS YOUR OBLIGATION TO INFORM THE SETTLEMENT ADMINISTRATOR OF ANY CHANGE TO YOUR MAILING ADDRESS PRIOR TO YOUR RECEIPT OF YOUR SETTLEMENT SHARE. FAILURE TO UPDATE YOUR MAILING ADDRESS MAY PREVENT YOUR RECEIPT OF YOUR INDIVIDUAL SETTLEMENT PAYMENTS.**



# Exhibit D

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**ADRIANNA JARRETT and MARY  
NGETHE** individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

**[24]7.AI, INC.,**

Defendant

Case No.: 23-cv-00677-EMC

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS’ UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS/COLLECTIVE ACTION  
SETTLEMENT AND OTHER RELATED  
RELIEF**

Honorable Edward M. Chen

Complaint Filed: February 15, 2023

Trial Date: None Set

This matter has come before the Court on the unopposed motion by Plaintiffs Adrianna Jarrett and Mary Ngethe (“Plaintiffs”), on behalf of themselves and similarly situated hourly-paid individuals engaged as customer service representatives with Defendant [24]7.ai, Inc. (“Defendant”) (together, the “Parties”), for final approval of the Parties’ Collective and Class Action Settlement Agreement and Release (hereinafter “Agreement” or “Settlement”) pursuant to Rule 23(e) of the Federal Rules of Civil Procedure and 29 U.S.C section 201, *et seq.*

Plaintiffs, without opposition by Defendant, seek an Order (1) certifying a class for settlement purposes under the Federal Rules of Civil Procedure, Rule 23 (hereinafter “Rule 23”) and certifying a FLSA collective for settlement purposes under 29 U.S.C. § 201, *et seq.* (as defined in the Parties’ Agreement); (2) finally approving the Parties’ Agreement; (3) appointing Plaintiffs Adrianna Jarrett and Mary Ngethe as Class Representatives for the Class/Collective and Plaintiffs’ counsel as Class Counsel; and (4) awarding fees to the third-party Settlement Administrator Atticus Administration, LLC.

By way of separate motion [ECF No. 95], Plaintiffs’ sought approval of Class Counsel’s

1 attorneys' fees and litigation expenses, as well as incentive awards to the Class Representatives.

2 Having considered the papers filed in support of the motion, the arguments of counsel, and the  
3 law, the Court now enters this Order and FINDS, CONCLUDES, and ORDERS as follows:

4 1. Pursuant to the Preliminary Approval Order, a Notice of Class Action and Proposed  
5 Settlement (accompanied with a Class Member Information Sheet and an Opt Out Request form) was  
6 sent to each Class/Collective Member by first-class mail. These papers informed Class/Collective  
7 Members of the terms of the Settlement, their right to submit a FLSA opt-in form; their right to receive  
8 Settlement Payments, their right to object to the Settlement or to elect not to participate in the  
9 Settlement and pursue their own remedies, and their right to appear in person or by counsel at the final  
10 approval hearing and be heard regarding approval of the Settlement. Adequate periods of time were  
11 provided by each of these procedures. Zero Class Members filed written objections to the proposed  
12 Settlement as part of this notice period or stated an intention to appear at the final approval hearing.  
13 Additionally, zero Class Members chose to opt out from the Settlement. The Court finds and  
14 determines that this notice procedure afforded adequate protections to Class Members and provides  
15 the basis for the Court to make an informed decision regarding approval of the Settlement based on  
16 the responses of Class/Collective Members. The Court finds and determines that the notice provided  
17 in this case was the best notice practicable, which satisfied the requirements of law and due process.

18 2. For the reasons stated in the Preliminary Approval Order, the Court finds and  
19 determines that the proposed Class/Collective, as defined in the definitions section of the Settlement  
20 Agreement and conditionally certified by the Preliminary Approval Order, meets all of the legal  
21 requirements for class certification, and it is hereby ordered that the Class/Collective is finally  
22 approved and certified as a class for purposes of the Settlement.

23 3. The Court further finds and determines that the terms of the Settlement are fair,  
24 reasonable and adequate to the Class/Collective and to each Class/Collective Member and that the  
25 Class/Collective Members who did not timely submit valid opt out request forms in accordance with  
26 the Settlement Agreement and the Preliminary Approval Order will be bound by the Settlement, that  
27 the Settlement is ordered finally approved, and that all terms and provisions of the Settlement  
28

1 Agreement should be and hereby are ordered to be consummated.

2 4. The Court finds and determines that the Settlement Payments to be paid to the  
3 Class/Collective Members as provided for by the Settlement Agreement, are fair and reasonable. The  
4 Court hereby gives final approval to and orders the payment of those amounts be made to the Class  
5 Members out of the Net Settlement Amount in accordance with the Settlement Agreement.

6 5. The Court finds and determines that the fees of Atticus Administration, LLC, in  
7 administering the Settlement, in the amount of \$36,744, are fair and reasonable. The Court hereby  
8 gives final approval to and orders that amount be paid out of the Net Settlement amount in accordance  
9 with the Settlement Agreement.

10 6. The Court determines by separate order the request by Plaintiffs and Class Counsel  
11 with respect to Class Representative Incentive Awards and the Class Counsel's Attorneys' Fees and  
12 Litigation Expenses.

13 7. Without affecting the finality of this order in any way, the Court retains jurisdiction of  
14 all matters relating to the interpretation, administration, implementation, effectuation and enforcement  
15 of this order and the Settlement Agreement.

16 8. Nothing in this order will preclude any action to enforce the parties' obligations under  
17 the Settlement Agreement or under this order, including the requirement that Defendant make  
18 payments to the Class/Collective Members in accordance with the Settlement Agreement.

19 9. Upon completion of administration of the Settlement, the Settlement Administrator will  
20 provide written certification of such completion to the Court and counsel for the parties.

21 10. Pursuant to the Settlement, Plaintiffs and all Class/Collective Members who did not  
22 timely submit opt out request forms are permanently barred from prosecuting against Defendant, and  
23 its parents, predecessors, successors, subsidiaries, affiliates, joint ventures, and trusts, and all of its  
24 employees (current and former), directors, board members, officers, agents, attorneys, shareholders,  
25 partners, managers, stockholders, fiduciaries, other service providers, and related persons and entities,  
26 and assigns, any of the claims released by them under the Agreement.

27 11. The parties are hereby ordered to comply with the terms of the Settlement Agreement.  
28

1           12.     The Court hereby enters final judgment in accordance with the terms of the Settlement  
2 Agreement, the Order Granting Preliminary Approval of Class and Collective Action Settlement and  
3 Other Related Relief entered on July 22, 2024, and this order.

4           13.     This document will constitute a final judgment (and a separate document constituting  
5 the judgment) for purposes of Rule 58, Federal Rules of Civil Procedure.

6           14.     The Parties will bear their own costs and attorneys’ fees except as otherwise provided  
7 by the Court’s order granting Class Counsel’s Attorneys’ Fees and Litigation Expenses.

8  
9 **IT IS SO ORDERED.**

10 Dated: \_\_\_\_\_, 2024

11 \_\_\_\_\_  
12 HON. EDWARD M. CHEN  
13 United States District Judge