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26 *Collective and Class Members*

27 UNITED STATES DISTRICT COURT
28 NORTHERN DISTRICT OF CALIFORNIA

29 WENDELL WALTON and MICHAEL
30 MANTONYA, individually and on behalf of
31 all others similarly situated,
32 Plaintiffs,
33
34 v.
35 AT&T SERVICES, INC.,
36
37 Defendant.

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Case No. CIVDS1601800

**STIPULATION OF CLASS
SETTLEMENT AND RELEASE**

Complaint Filed: August 11, 2015

1 This Stipulation of Class Settlement and Release (“Stipulation of Settlement” or
2 “Settlement Agreement”) is made and entered into by and between Plaintiffs Wendell Walton and
3 Michael Mantonya (“Plaintiffs” or “Class Representatives”) and AT&T Services, Inc.
4 (“Defendant” or “AT&T”), and is subject to the terms and conditions herein and the approval of
5 the Court. Plaintiffs and AT&T are referenced collectively herein as “the Parties.”

6 **BACKGROUND AND RECITALS**

7 1. On or about August 11, 2015, Plaintiffs filed a class action (“the Lawsuit”) in the
8 Northern District of California, entitled *Walton, et al. v. AT&T Services, Inc.* Plaintiff Walton had
9 previously filed a similar case in the Central District of California on May 18, 2015, but dismissed
10 that action after the Northern California action was filed. The operative complaint for the Lawsuit
11 alleged that Plaintiffs and other current and former Senior Training Manager Designers
12 (“Designers”) and Senior Training Manager Deliverers (“Deliverers”) were misclassified as
13 exempt and, as a result, were unlawfully denied overtime compensation and meal periods and rest
14 periods and that AT&T violated California Business and Professions Code section 17200, *et seq.*
15 The Complaint sought recovery of overtime compensation pursuant to the California Labor Code
16 and Fair Labor Standards Act (“FLSA”), meal period premiums, rest period premiums, penalties
17 for the failure to comply with the itemized employee wage statement provisions of Labor Code
18 section 226, penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”),
19 and attorneys’ fees and costs.

20 2. On August 17, 2017, the Parties mediated the Lawsuit before David A. Rotman, an
21 experienced class action mediator. At the mediation, the Parties reached a settlement in principle
22 memorialized by a signed Memorandum of Understanding.

23 3. For purposes of this Settlement Agreement, the “Settlement Class” shall consist of
24 all “Class Members.” “Class Members” are defined as:

25 “All individuals who worked for either AT&T Services, Inc. or AT&T Mobility
26 Services LLC who are not bound by the Management Arbitration Agreement
27 (“MAA”) and who worked in the job title of Senior Training Manager Design or
28 Senior Training Manager Delivery (1) from May 18, 2011 to March 1, 2018 or
preliminary approval (whichever is sooner) (the “California Covered Period”) for

1 California-based employees (“California Class Members”); (2) from May 18, 2012
2 to March 1, 2018 or preliminary approval (whichever is sooner) (the “Existing Opt-
3 In Covered Period”) for non-California employees who opted in to the *Walton*
4 action (“Existing Opt-Ins”); and (3) from August 18, 2014 to March 1, 2018 or
5 preliminary approval (whichever is sooner) (the “Future Opt-In Covered Period”)
6 for non-California employees who did not opt in to the *Walton* action (“Future Opt-
7 Ins”).”

8 4. For purposes of the settling the PAGA claim, the PAGA Representative Group is
9 defined as follows:

10 “All individuals who worked in California for either AT&T Services, Inc. or
11 AT&T Mobility Services LLC in the job title of Senior Training Manager Design
12 or Senior Training Manager Delivery from May 18, 2014 to March 1, 2018 or
13 preliminary approval (whichever is sooner) (the “PAGA Covered Period”) whether
14 or not they are bound by the MAA.”

15 The PAGA Representative Group overlaps partially with the California Class Members because it
16 covers the same geography for a shorter period of time, but also includes individuals who are not
17 part of the California Class because they are bound by the MAA.

18 5. For purposes of settling the Lawsuit, the Parties conditionally stipulate and agree
19 that the requisites for establishing class certification with respect to the Settlement Class have been
20 met and are met, and therefore, stipulate to FRCP 23 class certification and final FLSA collective
21 action certification. More specifically, the Parties conditionally stipulate and agree that, for the
22 Settlement Class:

- 23 a. The number of Class Members is so numerous as to make it impracticable
24 to join all Class Members.
- 25 b. There is an ascertainable class.
- 26 c. There are common questions of law and fact
- 27 d. Plaintiffs’ claims are typical of the claims of the members of the Settlement
28 Class.

1 e. Outten & Golden LLP and Posner & Rosen LLP should be deemed “Class
2 Counsel” and will fairly and adequately protect the interests of the Settlement
3 Class.

4 f. Plaintiffs Wendell Walton and Michael Mantonya should be appointed as
5 the representative of the Settlement Class and will fairly and adequately represent
6 the interests of the Settlement Class.

7 g. The prosecution of separate actions by individual members of the
8 Settlement Class would create the risk of inconsistent or varying adjudications,
9 which would establish incompatible standards of conduct.

10 h. Questions of law and fact common to the members of the Settlement Class
11 predominate over questions affecting individual members in the Settlement Class
12 and a class action is superior to other available means for the fair and efficient
13 adjudication of the controversy.

14 6. If the Court does not grant preliminary or final approval of the settlement, this
15 stipulation will have no effect and class certification will automatically be deemed not to have
16 been granted. The parties agree that this settlement stipulation is in no way an admission that
17 class certification is proper under the more stringent standard applied for litigation purposes and
18 that this stipulation will not be admissible in this or any other proceeding as evidence that a class
19 should be certified as Plaintiffs propose or that AT&T is liable in any way to Plaintiffs or the class
20 that Plaintiffs allege. AT&T expressly reserves its rights to oppose class certification of any
21 purported class should this settlement fail to become final and effective.

22 7. AT&T denies any liability or wrongdoing of any kind associated with the claims
23 alleged in the Complaint and further denies that, for any purpose other than settling the Lawsuit,
24 this action is appropriate for class treatment. AT&T contends, among other things, that it has
25 complied at all times with the FLSA, California Labor Code, and all applicable federal and
26 California law.

27 8. Plaintiffs believe that they have filed a meritorious action and that class
28 certification is appropriate of the claims asserted in the Lawsuit. Plaintiffs contend that AT&T

1 violated the FLSA and California's wage and hour laws and that this case is appropriate for class
2 certification as the requisites for class certification can be satisfied.

3 9. It is the desire of the Parties to fully, finally, and forever settle, compromise, and
4 discharge all disputes and claims which exist between them arising from the factual allegations
5 that underlie the Lawsuit concerning the alleged misclassification, failure to pay overtime
6 compensation, and other derivative claims. In order to achieve a full and complete release of
7 AT&T (and the "Releasees" as defined in Paragraph 10) of such disputes and claims, the Class
8 Representatives and Class Members (which includes any legal heirs and/or successors-in-interest
9 of each Class Member who receives Notice), through execution of the Stipulation of Settlement,
10 acknowledge that this Stipulation of Settlement is intended to include in its effect the entirety of
11 the Released Class Claims, as more fully described in Paragraphs 24 and 25 of this Stipulation of
12 Settlement.

13 10. It is the intention of the Parties that this Stipulation of Settlement shall constitute a
14 full and complete settlement and release of all claims described in Paragraphs 24 and 25 of this
15 Stipulation of Settlement. This release shall include in its effect not only AT&T, but also its
16 respective affiliates, subsidiaries, parent companies, related companies, partners, officers,
17 directors, managers, servants, agents, employees, former employees, representatives, and
18 attorneys, past or present, and all persons acting under, by, though, or in concert with any of them
19 (collectively, the "Releasees").

20 **TERMS OF SETTLEMENT**

21 11. Overview of Payment Structure. This settlement shall consist of a Gross Fund
22 Value which, in turn, is comprised of a Net Fund Value for the class, an award of attorney's fees
23 and costs, an award of administration expenses, enhancement awards to the two Class
24 Representatives for their service as representatives, witness service awards for Carolyn Castille
25 and the six individuals who submitted declarations in support of Plaintiffs' Motion for FLSA
26 Conditional Certification, and a payment to the Labor Workforce Development Agency
27 ("LWDA") to extinguish any PAGA claims arising within the scope of the release. Further
28 specifics are provided below.

1 12. Gross Fund Value. AT&T shall pay a sum not to exceed TWO MILLION SEVEN
2 HUNDRED AND FIFTY THOUSAND DOLLARS (\$2,750,000) (the “Gross Fund Value” or
3 “GFV”) to fund the settlement of this action. Payments by AT&T pursuant to this Settlement
4 Agreement shall settle all pending issues between the Parties. The settlement payments are not
5 being made for any other purpose and will not be construed as compensation for purposes of
6 determining eligibility for any health and welfare benefits or unemployment compensation.
7 Notwithstanding any other provision of this Agreement, AT&T shall be separately responsible for
8 paying any appropriate and lawfully required employer-side payroll taxes. Under no
9 circumstances shall AT&T pay more than the GFV and the employer’s portion of the applicable
10 payroll taxes.

11 13. Amounts Paid from the Gross Fund Value:

12 a. Attorneys’ Fees and Costs: Subject to review and final approval by the
13 Court, AT&T agrees that Class Counsel may separately apply for a total award not to exceed ONE
14 MILLION, ONE HUNDRED THOUSAND DOLLARS (\$1,100,000), for reasonable attorneys’
15 fees (representing 40% of the Gross Fund Value), and an additional amount to reimburse actual
16 litigation costs billed to Plaintiffs not to exceed ONE HUNDRED THOUSAND DOLLARS
17 (\$100,000). The attorneys’ fee and cost awarded by the Court shall be taken from the Gross Fund
18 Value.

19 b. Class representative and Witness Enhancement Awards: In further
20 consideration for settling this matter and in exchange for the release of all claims by the Settlement
21 Class, and subject to final approval, AT&T agrees that Class Counsel may apply for class member
22 enhancements for Wendell Walton and Michael Mantonya to compensate them for their time, risk
23 and effort on behalf of the class. The enhancement award is in addition to the claim share to
24 which Plaintiffs are otherwise entitled as a Qualified Claimant. AT&T agrees that Plaintiffs may
25 apply for enhancement award not to exceed TWENTY THOUSAND DOLLARS (\$20,000) each
26 for Mr. Walton and Mr. Mantonya. In addition, AT&T agrees that Class Counsel may apply for
27 witness service enhancement awards of up to FIVE THOUSAND DOLLARS (\$5,000) each for
28 Carolyn Castille, Gary Fujino, Janet Condon, Teresa Swigart, Ronald Hansen, Catherine Brown,

1 and Ursula Gulley (“Enhancement Witnesses”) to compensate them for their time, risk and effort
2 on behalf of the class as they either were deposed or submitted declarations in this matter. Any
3 enhancement or witness service awards granted shall be taken from the Gross Fund Value. If a
4 lower amount is awarded for these enhancements, the difference between the maximums indicated
5 above and the actual award will be allocated to the Net Fund Value.

6 c. Administration Costs: Costs required to administer the settlement will also
7 be paid from the GFV. The Parties have agreed to use JND Legal Administration as the
8 Settlement Administrator, with an expectation that the total administration costs will not exceed
9 FORTY THOUSAND DOLLARS (\$40,000), barring unforeseen circumstances. The Settlement
10 Administrator’s administration duties shall include, without limitation, mailing and re-mailing
11 Notices, collecting and processing claim forms, calculating individual estimated and actual
12 awards, processing requests for exclusion and objections, administering the signing of the
13 Management Arbitration Act as set forth in Paragraph 16 below, performing necessary skip traces
14 on Notices returned as undeliverable, mailing Class Member settlement checks, issuing any
15 required tax reporting forms, and providing weekly status reports to Counsel for the Parties,
16 reporting to the Court as requested by the Parties, and to send the appropriate pursuant to the Class
17 Action Fairness Act (“CAFA”), 28 U.S.C. § 1715, among other tasks set forth in this Stipulation.
18 The total administration costs will be deducted from the GFV. Defendant is not responsible or
19 liable for any errors in the calculation of workweeks or settlement amount to be awarded to each
20 class member. Defendant is also not liable or responsible for any errors made by the Settlement
21 Administrator in the administration of the settlement.

22 d. PAGA Payment. The Parties agree that a total of EIGHTY THOUSAND
23 DOLLARS (\$80,000) shall be allocated from GFV as settlement of PAGA claims for the PAGA
24 Representative Group. Seventy-five percent (75%) of this sum will be sent to the Labor
25 Workforce Development Agency and twenty-five percent (25%) will be allocated amount the
26 PAGA Representative Group proportionally based on the number of workweeks each member of
27 that group worked during the PAGA Covered Period. PAGA Representative Group members
28 shall not be required to make claims, but shall simply be delivered a check for their share of the

1 PAGA settlement when class payments are delivered. To the extent that any member of the
2 PAGA Representative Group is not bound by the MAA, they must sign the AA in order to receive
3 their portion of the settlement funds.

4 e. Remaining Net Fund Value for Class: After all payments of attorney's fees
5 and costs, class representative and witness service enhancements, administrative costs, and PAGA
6 payments are deducted from the Gross Fund Value, the remaining portion, the "Net Fund Value"
7 or "NFV," shall be distributed to class members who do not affirmatively exclude themselves
8 from the settlement, as discussed below.

9 f. Claims Process: Class Members shall receive notice of the action and may
10 exclude themselves or "opt out" if they do not want to participate in the settlement. To receive
11 payment, each Class Member must file a Claim Form and sign an Arbitration Agreement ("AA"),
12 with the following exceptions. California Class Members and Existing Opt-Ins are deemed to
13 have already filed Claim Forms (unless they affirmatively opt out of the settlement). Although the
14 California Class Members and Existing Opt-Ins do not have to submit claim forms, they must sign
15 the AA to receive payment, as described in more detail in Paragraph 16 below. All Future Opt Ins
16 must submit a Claim Form and sign the AA to receive payment, as described in more detail in
17 Paragraph 16 below. For Future Opt Ins who fail to return a Claim Form (but not California Class
18 Members or Existing Opt-Ins), AT&T shall be entitled to retain their portion of the settlement
19 fund, because their affirmative participation in the settlement is a prerequisite to a release of their
20 FLSA claims. In consideration for settlement and a release of all claims of the Settlement Class
21 against AT&T, each California Class Member and Existing Opt-In who does not timely opt out
22 and each Future Opt Ins who submits a Claim Form (collectively, "Qualified Claimants") will
23 receive a share of the NFV.

24 g. Formula to Distribute the Net Fund Value. In consideration for settlement
25 and a release of all claims of the Settlement Class against AT&T, the Net Fund Value ("NFV")
26 will be used to pay the Individual Settlement Payments to the Qualified Claimants. The fund shall
27 be subdivided so that 86% of the NFV is allocated to the claims of California Class Members and
28 the Existing FLSA Opt-Ins ("NFV-A"). The remaining 14% of the NFV shall be allocated to the

1 Future Opt Ins (“NFV-B”). AT&T agrees to pay to each Qualified Claimant a proportional share
2 of the claim fund based on the following formula:

3 (1) Individual Workweek Calculations: For each Qualified
4 Claimant, using the data available to AT&T, the Settlement Administrator will calculate
5 the total number of weeks that the individual worked in either the job title of Senior
6 Training Manager Design or Senior Training Manager Delivery (1) in California during
7 the California Covered Period; (2) outside of California during the Existing Opt-In
8 Covered Period for the Existing Opt-Ins ; and (3) outside of California during the Future
9 Opt-In Covered Period for the Future Opt-Ins. Each employee’s workweek count shall be
10 calculated by the Settlement Administrator using AT&T’s official records. To the extent
11 an employee executed a release but was re-employed in a class position thereafter, the
12 period before the release shall be excluded from the employee’s workweek calculation. In
13 addition, weeks in which an employee is on a leave of absence shall be excluded from the
14 employee’s workweek calculation.

15 (2) **State Multipliers:** For each workweek in California, the
16 State Multiplier shall be three. All other workweeks shall have a State Multiplier of one.

17 (3) **Job Position Multiplier:** For each workweek as a Senior
18 Training Manager Delivery, the Job Position Multiplier shall be 1.5. All other workweeks
19 shall have a Job Position Multiplier of one.

20 (4) **Adjusted Workweek Calculations:** The Settlement Administrator
21 will calculate the Adjusted Workweeks by applying the appropriate multipliers to each workweek
22 for each Qualified Claimant.

23 (5) **Individual Settlement Payments:** The Settlement Administrator
24 will calculate the Individual Settlement Payments as follows. The settlement share for each
25 Qualified Claimant who is a California Class Member or Existing FLSA Opt-In will be
26 calculated as the (a) NFV-A times (b) his or her individual Adjusted Workweek count divided by
27 (c) the total Adjusted Workweeks attributable to all work performed in California or by Existing
28 Opt-Ins.- The settlement share for each potential Future FLSA Opt-In will be calculated as the

1 (a) NFV-B times (b) his or her individual Adjusted Workweek count divided by (c) the total
2 Adjusted Workweeks attributable to all work performed by Future Opt-Ins.- Only those Future
3 FLSA Opt-Ins who are Qualified Claimants (because they properly submit Claim Forms and sign
4 the AA) shall receive a settlement share.

5 14. Settlement Date: The settlement embodied in this Stipulation of Settlement shall
6 go into effect upon entry of a final Judgment by the Court approving this Stipulation of
7 Settlement.

8 15. Funding and Payout of Settlement Funds

9 a. Payment Procedure to Settlement Administrator: No later than ten (10)
10 business days after the “effective date” of final approval of the settlement, AT&T will issue to the
11 Settlement Administrator payment of the Gross Fund Value. The effective date shall be the date
12 of final approval if no objections are filed to the settlement. If objections are filed and overruled,
13 and no appeal is taken of the final approval order, then the effective date of final approval shall be
14 thirty-five (35) days after the Court enters final approval. If an appeal is taken from the Court’s
15 overruling of objections to the settlement, then the effective date of final approval shall be twenty
16 (20) days after the appeal is withdrawn or after an appellate decision affirming the final approval
17 decision becomes final. No money will be distributed unless and until the effective date of final
18 approval occurs.

19 b. Within ten (10) business days after receiving payment from AT&T, the
20 Settlement Administrator will distribute the funds from the GFV, including mailing settlement
21 checks to Qualified Claimants, making attorneys’ fees and cost payments, and making class
22 representative and witness enhancement payments. Qualified Claimants shall have 180 days after
23 mailing by the Settlement Administrator to cash their settlement checks.

24 c. Should there remain any residual from the Gross Fund Value after all
25 payments are made under this Settlement Agreement, for example, if any settlement checks
26 remain uncashed more than 180 calendar days after mailing, the Settlement Administrator shall
27 redistribute to participating class members pro rata if feasible, or else will pay the funds
28

1 represented by such un-redeemed checks to the California Industrial Relations Unclaimed Wages
2 Fund with an identification of the participating class member.

3 d. Tax Treatment of Settlement Payments: The Parties have determined that fifty
4 percent (50%) of the amount distributed to each Qualified Claimant will be treated as wages,
5 subject to IRS Form W-2 reporting and, therefore, normal payroll taxes and withholdings will be
6 deducted pursuant to state and federal law, and AT&T will make all required payroll tax
7 contributions (e.g., FICA, FUTA, etc.). Contingent upon a Qualified Claimant cashing his/her
8 settlement payment, the payment representing back wages will be reported to the IRS and the
9 Qualified Claimant under the Qualified Claimant name and social security number on an IRS
10 Form W-2. Fifty percent (50%) of the amount distributed to each Qualified Claimant will be
11 treated as penalties or interest sought in the Lawsuit. Contingent upon a Qualified Claimant
12 cashing his/her settlement payment, the payment representing interest shall be reported to the IRS
13 and the Qualified Claimant under the Qualified Claimant's name and social security number on an
14 IRS Form 1099 to the extent required by law. AT&T will pay the employer's share of payroll
15 taxes, which will be paid separate and in addition to the Gross Fund Value. In the event of an
16 audit of AT&T by any state or federal government agency, or if any tax authority should dispute
17 the characterization of this compensation, AT&T reserve all rights to indemnification permitted by
18 law. This agreement does not constitute legal advice by counsel for any of the parties to this
19 agreement concerning any federal, state or local tax issue. To the extent this agreement, or any of
20 its attachments, is interpreted to contain or constitute advice regarding any federal, state or local
21 tax issue, such advice is not intended or written to be used, and cannot be used, by any person for
22 the purpose of avoiding any tax liability or penalties.

23 e. Resolution of Disputes Relating to Amounts Owed to a Claimant: If a
24 Qualified Claimant timely disputes AT&T's records as to his or her proper settlement share, the
25 Parties' counsel will make a good faith effort to resolve the dispute informally. If counsel for the
26 Parties cannot agree, the dispute shall be resolved by the Settlement Administrator.

27 16. Arbitration Agreement: As a condition of settlement and to recover their portion of
28 the settlement funds, all Settlement Class Members (including the PAGA representative group not

1 already bound by the MAA) are required to sign the AA agreeing to arbitrate any future claims
2 related to their employment with AT&T individually under the AA. All members of the
3 settlement class outside of California who have not yet opted in to this action must complete the
4 claim form in full, including signing the copy of the AA included in their Notice packet in order to
5 receive their share of the NFV. For those individuals who do not need to submit a claim form
6 (i.e., the California Class Members and Existing FLSA opt-ins), they must separately sign the AA
7 that is included in the Notice packet in order to receive their share of the NFV.

8 **NOTICE TO THE CLASS**

9 17. Within ten (10) business days after preliminary approval of this settlement, AT&T
10 will provide to the Settlement Administrator all of the following information about each Class
11 Member in Excel format (“Class Data List”): (1) name, (2) last known home address, telephone
12 number, and email address(es) (3) Social Security number, (4) the class member's dates of
13 employment in a covered class position (i) as a California employee and (ii) as a non-California
14 employee; (5) class members’ job title(s) while in a covered class position and dates of the job
15 title(s), and (6) whether the class member is an Existing Opt-In.

16 18. Within ten (10) calendar days after receipt of the “Class Data List,” the Settlement
17 Administrator will send all Class Members, by first-class mail to their last known address, and
18 email to their last known email address(es), the Court-approved Notice of Pendency of Class
19 Action (“Notice”), in the form attached hereto as Exhibit “A.” For Future Opt-Ins, the Settlement
20 Administrator will include with the mailing and emailing of the Notice the Court-approved Claim
21 Form, in the form which will be attached hereto as Exhibit “B.” The Notice and Claim Form will
22 also include the Settlement Administrator’s calculation of each Class Member’s estimated
23 Individual Settlement Payment.

24 **SETTLEMENT ADMINISTRATION PROCESS**

25 19. Class Members will have forty-five (45) days from the date of the Notice mailing
26 to provide any submission (including a Claim Form (if applicable), AA, or written request for
27 exclusion) to the Settlement Administrator or file with the Court comments or objections. For
28 mailed submissions, any item mailed by the deadline, as evidenced by a postmark, shall be

1 deemed to be timely. Submissions may be filed by mail, fax, email, or online website submission.
2 All signed AAs (whether sent by mail, fax, email, etc.) must be legible. To be valid, requests for
3 exclusion must comply with the instructions in the Notice. A Class Member who excludes
4 himself or herself from the settlement shall lose standing to object. The Settlement Administrator
5 will perform two skip-traces on returned mail and re-mail the Notice and Claim Form (if
6 applicable) to an updated address (if any) as soon as possible upon return of the undeliverable
7 Notice, but no later than fifteen (15) days of receiving notice that a Notice was undeliverable. It is
8 the intent of the Parties that reasonable means be used to locate Class Members. The Settlement
9 Administrator will mail a follow-up reminder notice, by e-mail and mail, to those Class Members
10 who have not submitted the required forms (i.e., the Claim Form (if appropriate) and the AA)
11 approximately twenty (20) days before the expiration of the claim period encouraging Class
12 Members to submit those forms. Class Counsel can make reasonable efforts to supplement these
13 communications.

14 20. Within ten (10) days after receipt by the Settlement Administrator of each timely-
15 submitted request for exclusion, the Settlement Administrator will send a deficiency notice to the
16 Class Members for any irregularities in any request for exclusion (such as failure to sign or
17 include last four digits of Social Security Number). The deficiency notice will provide the Class
18 Members the greater of ten (10) days or the remainder of the notice period to submit a written
19 response to cure all deficiencies. The failure of a Class Member to cure all deficiencies in a timely
20 manner shall invalidate a request for exclusion and will not be subject to cure. The Settlement
21 Administrator shall promptly share information about requests for exclusion with the parties.

22 21. As part of the Class Data List, AT&T will provide the Settlement Administrator
23 with the relevant data to allow the Settlement Administrator to calculate each Class Member's
24 share of the NFV based on information contained in its payroll systems. The Settlement
25 Administrator will certify jointly which request for exclusion forms, if any, were timely submitted.
26 The Settlement Administrator shall be responsible for calculating the payments, issuing the
27 payments and any required tax reporting forms, and communicating this information to AT&T and
28 Class Counsel. Upon completion of its calculation of payments, the Settlement Administrator
shall provide Class Counsel and AT&T with a report listing the amount of all payments to be

1 made to each Qualified Claimant. Proof of payment will be filed with the Court and provided to
2 the Parties' counsel.

3 22. To the extent any California Class Member or Existing FLSA Opt-In requests
4 exclusion from the settlement, his or her unclaimed portion shall remain in NFV-A, and made
5 available for distribution to the remainder of the Qualified Claimants.

6 **RIGHT TO RESCISSION IN THE EVENT OF EXCESS OPT-OUTS**

7 23. Notwithstanding any other provision of this Stipulation of Settlement, AT&T shall
8 retain the right, in the exercise of its sole discretion, to nullify the settlement within thirty (30)
9 days of expiration of the opt-out deadline, if a total of twenty-five (25) or more California Class
10 Members or Existing Opt-Ins opt out of the settlement. All signatories and their counsel must not
11 encourage opt-outs. The Parties specifically agree not to solicit opt-outs, directly or indirectly,
12 through any means. Objective statements to Class Members who call Class Counsel with inquiries
13 regarding the settlement, or the exercise of Class Counsel's ethical obligations, shall not be
14 deemed a violation of the prohibitions contained herein. In the event of such a rescission, no party
15 may use the fact that the Parties agreed to settle this case as evidence of AT&T's liability in this
16 Lawsuit or the lack thereof. If AT&T exercises its right to rescind the settlement it will be solely
17 responsible for the Settlement Administrator's costs incurred up to that date.

18 **RELEASE OF CLAIMS**

19 24. Released Claims By Class Members: Upon final approval by the Court, the
20 Settlement Class and each Qualified Claimant will release AT&T and the Releasees from the
21 Released Class Claims defined as any and all claims asserted in the Complaint based on the cited
22 statutes and underlying facts, including those that arise from the allegation that AT&T
23 misclassified Class Members as exempt under state or federal wage and hour law. This includes
24 but is not limited to claims arising under the, California Labor Code, California Business &
25 Professions Code (including Section 17200) or any other wage and hour statute (except the
26 FLSA); the Wage Orders of the California Industrial Welfare Commission; claims for restitution
27 and other equitable relief, liquidated damages, punitive damages, waiting time penalties, penalties
28 of any nature whatsoever, whether known or unknown, during the Settlement Period, arising from

1 the underlying allegation of exempt misclassification. *Per the requirements of the FLSA,*
2 *however, the release of FLSA claims by Future FLSA Opt-Ins shall apply only to those individuals*
3 *who submit claims under this settlement.*

4 25. Released Claims By Named Plaintiffs and Enhancement Witnesses: Except as
5 specified herein, and only if an enhancement award or witness service enhancement award (of
6 whatever amount approved by the Court) is issued to the Named Plaintiffs and the Enhancement
7 Witnesses, the Named Plaintiffs and Enhancement Witnesses fully release and discharge the
8 Released Parties, from any and all actions, causes of action, obligations, costs, expenses, damages,
9 penalties, losses, claims, liabilities, suits, debts, demands, and benefits (including attorneys' fees
10 and costs), of whatever character, in law or in equity, known or unknown, suspected or
11 unsuspected, matured or unmatured, of any kind or nature whatsoever, now existing or arising in
12 the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of
13 time to the date of execution hereof, including but not limited to any equitable or legal claims or
14 causes of action arising out of or in any way relating to their employment or which have been or
15 could have been made in the Lawsuit, including any claims under the state and federal anti-
16 discrimination statutes, for a breach of contract, or alleging tortious conduct by the Released
17 Parties. By executing this Agreement, Named Plaintiffs and Enhancement Witnesses are also
18 consenting to and opting into the FLSA Release.

19 The Released Claims by the Named Plaintiffs and Enhancement Witnesses includes any
20 unknown claims that they do not know or suspect to exist in their favor at the time of the release,
21 which, if known by them, might have affected their settlement with, and release of, the Released
22 Parties, or might have affected their decision not to object to this Settlement. With respect to the
23 Released Claims, the Named Plaintiffs and Enhancement Witnesses stipulate and agree that, upon
24 final approval by the Court, he shall be deemed to have, and by operation of the Final Judgment
25 shall have, expressly waived and relinquished, to the fullest extent permitted by law, the
26 provisions, rights, and benefits afforded by Section 1542 of the California Civil Code, or any
27 similar provision under federal or state law, and do so understanding the significance of that
28 waiver. Section 1542 provides:

1 **“A general release does not extend to claims which the creditor does not know**
2 **or suspect to exist in his or her favor at the time of executing the release, which**
3 **if known by him or her must have materially affected his or her settlement**
4 **with the debtor.”**

5 The Named Plaintiffs and Enhancement Witnesses further acknowledge and agree that
6 they release and waive any right to become, and promise not to consent to become, a class
7 member in any case in which claims are asserted against the Released Parties, including those that
8 are related in any way to their employment with or termination from AT&T and for which claims
9 arise from the beginning of time to the date of execution hereof. In that regard, the Named
10 Plaintiffs and Enhancement Witnesses agree that they may not and will not submit a claim form as
11 to the Released Claims in any class action in which they are included as a putative class member,
12 if any. Nothing herein shall prohibit Named Plaintiffs and Enhancement Witnesses from filing a
13 charge or participating in an investigation by the EEOC (or equivalent state agency) or the NLRB,
14 provided that Plaintiffs shall not personally be entitled to recovery any monetary remedy or other
15 relief from any matter brought by the EEOC, an equivalent state agency, or the NLRB for the
16 claims released here.

17 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

18 26. The Parties shall promptly submit this Stipulation of Settlement to the Court in
19 support of a request for preliminary approval and determination by the Court as to its fairness,
20 adequacy, and reasonableness. Plaintiffs’ counsel will provide AT&T’s counsel a draft of the
21 motion for preliminary approval at least two business days prior to filing for review and comment.
22 Promptly upon execution of this Stipulation of Settlement, the Parties shall apply to the Court for
23 the entry of a preliminary order, substantially in the form attached hereto as Exhibit C, which
24 would accomplish the following:

25 a. Scheduling a final fairness hearing on the question of whether the proposed
26 settlement, the Class Representatives’ and witness enhancement awards, the PAGA payment, and
27 the requested attorneys’ fees and costs should be finally approved as fair, reasonable, and adequate
28 as to the Class Members;

- 1 b. Certifying a Settlement Class for all claims;
- 2 c. Certifying this action under California law as a class action for purposes of
- 3 settlement;
- 4 d. Approving as to form and content the proposed Notice and Claim Form and
- 5 MAA;
- 6 e. Directing the mailing of the Notice and Claim Form and MAA, by first-
- 7 class mail and email, to the Class Members;
- 8 f. Preliminarily approving the settlement subject only to the objections of
- 9 Class Members and final review by the Court; and,
- 10 g. Preliminarily approving the use of a mutually agreed Settlement
- 11 Administrator for approximately \$40,000.

12 **DUTIES OF THE PARTIES FOLLOWING FINAL APPROVAL**

- 13 27. Following final approval of the settlement provided for in this Stipulation of
- 14 Settlement, Class Counsel will submit a proposed Final Order and Judgment, substantially in
- 15 the form attached hereto as Exhibit D:
- 16 a. Approving the settlement, adjudging the terms thereof to be fair, reasonable,
 - 17 and adequate, and directing consummation of its terms and provisions;
 - 18 b. Approving Class Counsel’s application for an award of attorney’s fees and
 - 19 costs;
 - 20 c. Approving the Class Representatives’ and witness enhancement awards;
 - 21 d. Approving the payment to PAGA and the Settlement Administrator’s fees
 - 22 from the Gross Fund Value.
 - 23 e. Barring all members of the Settlement Class from prosecuting against
 - 24 Releasees any of the Released Class Claims.

25 **PARTIES’ AUTHORITY**

- 26 28. The signatories hereto hereby represent that they are fully authorized to enter into
- 27 this Stipulation of Settlement and bind the Parties hereto to the terms and conditions hereof.
- 28

1 **MUTUAL FULL COOPERATION**

2 29. The Parties agree fully to cooperate with each other to accomplish the terms of this
3 Stipulation of Settlement, including but not limited to, execution of such documents and to take
4 such other action as may reasonably be necessary to implement the terms of this Stipulation of
5 Settlement. The Parties to this Stipulation of Settlement shall use their best efforts, including all
6 efforts contemplated by this Stipulation of Settlement and any other efforts that may become
7 necessary by order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the
8 terms set forth herein. As soon as practicable after execution of this Stipulation of Settlement,
9 Class Counsel shall, with the assistance and cooperation of AT&T and its counsel, take all
10 necessary steps to secure the Court's final approval of this Stipulation of Settlement.

11 **NO PRIOR ASSIGNMENTS**

12 30. The Parties hereto represent, covenant, and warrant that they have not directly or
13 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
14 person or entity any portion of any liability, claim, demand, action, cause of action, or rights
15 herein released and discharged except as set forth herein.

16 **NO ADMISSION**

17 31. Nothing contained herein, nor the consummation of this Stipulation of Settlement,
18 is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on
19 the part of AT&T. AT&T specifically denies any liability. Each of the Parties hereto has entered
20 into this Stipulation of Settlement with the intention to avoid further disputes and litigation with
21 the attendant inconvenience and expenses.

22 **PUBLICITY**

23 32. Neither Plaintiffs nor Class Counsel will publicize the Settlement in any way prior
24 to preliminary approval. The parties and their counsel agree that they will not issue any press
25 releases or initiate any similar contact with the media about the fact, amount, or terms of the
26 Settlement. This provision shall not prohibit Class Counsel from communicating with members
27 of the Class. If counsel for any party receives an inquiry about the settlement from the media,
28

1 counsel may respond only after the motion for preliminary approval has been filed and only by
2 confirming and explaining the terms of the Settlement.

3 **NO RETALIATION**

4 33. AT&T agrees that there will be no retaliation, discrimination or adverse
5 employment action against the Plaintiffs or any member of the Settlement Class as a result of this
6 Lawsuit, the Settlement or their participation in this Lawsuit or Settlement.

7 **“NEED TO KNOW” INFORMATION SHARING**

8 34. It is the Parties’ intention that Class Members be reasonably assured that their
9 interest in maintaining the privacy of their participation in the Settlement be respected as much as
10 possible, without compromising the Parties’ ability to execute and implement the settlement in
11 good faith. Therefore, information regarding which Class Members submit Claim Forms, opt out,
12 comment on the settlement, or cash settlement checks will be shared with AT&T on a need to
13 know basis. Specifically, the dissemination of such information will be limited to AT&T’s
14 outside counsel, AT&T’s in-house counsel, and AT&T’s Human Resources Department. AT&T
15 will have no policy of disseminating such information to managers within Class Members’ chain
16 of command. These limitations will not prevent AT&T from sharing any information with any
17 AT&T employee if the sharing of such information is necessary to fulfill the requirements of this
18 Settlement.

19 **CONSTRUCTION**

20 35. The Parties hereto agree that the terms and conditions of this Stipulation of
21 Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, and
22 that this Stipulation of Settlement shall not be construed in favor of or against any party by reason
23 of the extent to which any party or his, her, or its counsel participated in the drafting of this
24 Stipulation of Settlement.

25 **CAPTIONS AND INTERPRETATIONS**

26 36. Paragraph titles or captions contained herein are inserted as a matter of convenience
27 and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation of
28

1 Settlement or any provision hereof. Each term of this Stipulation of Settlement is contractual and
2 not merely a recital.

3 **MODIFICATION**

4 37. This Stipulation of Settlement may not be changed, altered, or modified, except in
5 writing and signed by the Parties hereto, and approved by the Court. Notwithstanding the
6 foregoing, the Parties agree that any dates contained in this Agreement may be modified by
7 agreement of the Parties without prior Court approval if the Parties agree and cause exists for such
8 modification. This Stipulation of Settlement may not be discharged except by performance in
9 accordance with its terms or by a writing signed by the Parties hereto.

10 **INTEGRATION CLAUSE**

11 38. This Stipulation of Settlement contains the entire agreement between the Parties
12 relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous
13 agreements, understandings, representations, and statements, whether oral or written and whether
14 by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived
15 except in writing.

16 **BINDING ON ASSIGNS**

17 39. This Stipulation of Settlement shall be binding upon and inure to the benefit of the
18 Parties hereto and their respective heirs, trustees, executors, administrators, successors and
19 assigns.

20 **CLASS COUNSEL SIGNATORIES**

21 40. The Parties agree that it is impossible or impractical to have each Class Member
22 execute this Stipulation of Settlement. The Notice, Exhibit "A," will advise all Class Members of
23 the binding nature of the release and such shall have the same force and effect as if this Stipulation
24 of Settlement were executed by each Class Member.

25 **ACKNOWLEDGEMENT THAT THE SETTLEMENT IS FAIR AND**
26 **REASONABLE**

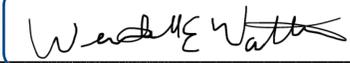
27 41. The Parties believe this Settlement Agreement is a fair, adequate and reasonable
28 settlement of the lawsuit and have arrived at this Settlement after arm's-length negotiations and in

1 the context of adversarial litigation, taking into account all relevant factors, present and potential.
 2 This Settlement was also reached only after the Parties participated in a full-day mediation with an
 3 experienced wage-and-hour mediator. The Parties further acknowledge that they are each
 4 represented by competent counsel and that they have had an opportunity to consult with their
 5 counsel regarding the fairness and reasonableness of this Settlement.

COUNTERPARTS

7 42. This Stipulation of Settlement may be executed in counterparts, and when each
 8 party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
 9 original, and, when taken together with other signed counterparts, shall constitute one Stipulation
 10 of Settlement, which shall be binding upon and effective as to all Parties.

11 Dated: 9/27/2017
 12 September __, 2017

DocuSigned by:

 333E44E8594A490
 13 Wendell Walton
 14 Plaintiff and Class Representative

15 Dated: September __, 2017

16 By: _____
 17 Michael Mantonya
 18 Plaintiff and Class Representative

19 Dated: September __, 2017

20 By: _____
 21 for AT&T Services, Inc.

Approval As To Form And Content By Counsel:

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 23
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 27
 28

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11 Dated: September __, 2017 By: _____
12 Wendell Walton
13 Plaintiff and Class Representative

14 9/26/2017
15 Dated: September __, 2017 By:  _____
16 Michael Mantonya
17 Plaintiff and Class Representative

18 Dated: September __, 2017 By: _____
19 for AT&T Services, Inc.

20 **Approval As To Form And Content By Counsel:**
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11 Dated: September __, 2017 By: _____
12 Wendell Walton
13 Plaintiff and Class Representative

14
15 Dated: September __, 2017 By: _____
16 Michael Mantonya
17 Plaintiff and Class Representative

18 Dated: September 27, 2017 By: Elisha Paratore
19 for AT&T Services, Inc.

20 **Approval As To Form And Content By Counsel:**
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1 Dated: September 25, 2017

Respectfully submitted,

2 By: 
3 Jahan C. Sagafi

4 Jahan C. Sagafi (Cal. Bar No. 224887)
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22 Facsimile: (213) 389-0663

*Attorneys for Plaintiffs and Proposed Collective
and Class Members*

23 Dated: September ____, 2017

24 By: _____
25 Paul Berkowitz

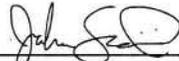
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Dated: September __, 2017

Respectfully submitted,

By: 
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*Attorneys for Plaintiffs and Proposed Collective
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Dated: September 27, 2017

By: 
Paul Berkowitz

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