

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement” or “Settlement”) is made and entered into between plaintiffs and class representatives Stephanie Ochoa, Ernestina Sandoval, Yadira Rodriguez, and Jasmine Hedgepeth, on their own behalf, on behalf of the State of California, and on behalf of all members of the class certified by the Court in this Action, and defendants McDonald’s Corporation, McDonald’s U.S.A., LLC, and McDonald’s Restaurants of California, Inc., subject to the terms and conditions of this Agreement and to the approval of the United States District Court in *Ochoa, et al. v. McDonald’s Corp., et al.*, N.D. Cal. No. 3:14-cv-02098-JD.

I. DEFINITIONS

1. As used in this Agreement, the following terms shall have the following meanings:
 - a. Action. The “Action” means the civil action captioned *Ochoa, et al. v. McDonald’s Corp., et al.*, N.D. Cal. No. 3:14-cv-02098-JD (N.D. Cal.).
 - b. Agreement. “Agreement” means this Settlement Agreement and all exhibits attached hereto.
 - c. Claim Form. “Claim Form” means the proof of claim agreed to by the Parties and to be submitted for approval by the Court which shall be used by certain Class Members as described herein to file a claim under this Agreement. A copy of the Claim Form is attached hereto as Exhibit 1.
 - d. Claims Administrator. “Claims Administrator” means CPT Group, Inc. or another claims administrator agreed to by the Parties.
 - e. Class Counsel. “Class Counsel” means Altshuler Berzon LLP and Cohen Milstein Sellers & Toll PLLC.
 - f. Class Members. “Class Members” means the members of the class certified by

the Court as set forth in the Court's Order Re Class Certification, dated July 7, 2016 (ECF Docket No. 319), as subsequently clarified by the parties in ECF Docket Nos. 339 & 340 (clarifying that the date for the end of the class period is the date that requests to opt out are due from class members) and ECF Docket No. 364 (clarifying that the restaurants covered by the certified class include the Jackson Street restaurant before and after April 2014), excluding those persons who opt out of the Class by no later than November 5, 2016 pursuant to the class notice and opt-out procedure approved by the Court on August 11, 2016, or who timely opt out of the Settlement pursuant to the procedures herein. Absent agreement of the Parties, each person included on the class list used by the Claims Administrator to provide notice to the Class on or about September 6, 2016 (excluding those who timely opted out pursuant to the procedures approved by the Court on August 11, 2016) shall be deemed to be a Class Member; provided that, to the extent a person on the list was employed as a manager at some point during the Class Period, the work weeks that person worked as a manager (to the extent that time period can be determined) shall not be counted as weeks worked during the Class Period for purposes of this settlement, and that persons who have opted out of the Class pursuant to the class notice and opt-out procedure approved by the Court on August 11, 2016 shall not be Class Members. An individual who is not listed on the Class List, but who submits a valid Claim Form as provided for herein and identifies the time during which s/he was employed as a crew member, crew trainer, or maintenance worker paid on an hourly basis at any of the Restaurants during the Class Period, shall be deemed a Class Member.

g. Class Notice. "Class Notice" means the notice to Class Members that explains the

Agreement and the Class Members' rights and obligations, which shall be sent to all Class Members following preliminary approval of the Settlement, and which shall, *inter alia*, explain the procedures for determining the Class Member's settlement share, filing an objection to the Settlement, and opting out of the Settlement. The Class Notice shall be translated into Spanish, and both English and Spanish versions will be sent to all Class Members. The English version of the proposed Class Notice is attached hereto as Exhibit 2 and is subject to Court approval and revisions by the Court.

- h. Class Period. "Class Period" means the period from March 12, 2010 to November 5, 2016.
- i. Class Representatives. "Class Representatives" means plaintiffs Stephanie Ochoa, Ernestina Sandoval, Yadira Rodriguez, and Jasmine Hedgepeth.
- j. Court. "Court" means the United States District Court for the Northern District of California.
- k. Effective Date. If no timely objections are filed to the Settlement, the "Effective Date" of this Agreement shall be the date the Court enters the Final Judgment . If objections are filed and overruled and no appeal is taken from the Final Judgment , the "Effective Date" shall be 30 days after the district court enters the Final Judgment . If an appeal is taken from the district court's overruling of objections to the settlement and/or from the Final Judgment (other than an appeal limited solely to a challenge to the denial or reduction in the amount of requested attorneys' fees and litigation expenses), the "Effective Date" shall be 30 days after the appeal is withdrawn or after all appellate review thereof is exhausted and an appellate decision exhausting such review and affirming the Final Judgment

decision becomes final.

- l. Final Settlement Hearing. “Final Settlement Hearing” means the hearing following Class Notice at which the Court will consider whether the terms of this Agreement are fair and reasonable to the class as a whole.
- m. Final Judgment. “Final Judgment” means the order of final approval of the Settlement.
- n. McDonald’s. “McDonald’s” shall mean defendants McDonald’s Corporation, McDonald’s U.S.A., LLC, and McDonald’s Restaurants of California, Inc.
- o. Parties. “Parties” shall mean the parties to the Agreement, specifically, the Class Representatives, individually and on behalf of all Class Members, and McDonald’s.
- p. Preliminary Approval Order. “Preliminary Approval Order” means the order entered and filed by the Court that preliminarily approves the terms and conditions of this Agreement.
- q. Released Parties. “Released Parties” means defendants McDonald’s Corporation, McDonald’s U.S.A., L.L.C, and McDonald’s Restaurants of California, Inc., and their employees, directors, shareholders, officers, owners, and attorneys.
- r. Restaurants. “Restaurants” means the five franchised McDonald’s restaurants in California, located at: (1) 2301 MacDonalD Avenue, Richmond, CA 94804; (2) 4514 Telegraph Avenue, Oakland, CA 94607; (3) 6623 San Pablo Avenue, Oakland, CA 94608; (4) 800 Market Street, Oakland, CA 94607; and (5) 1330 Jackson Street, Oakland, CA 94612.
- s. Settled Claims. “Settled Claims” means any and all claims that were alleged in this action, arise out of or are related to the allegations and claims alleged in the

action, and/or could have been alleged based on the facts, matters, transactions, or occurrences alleged in the action.

- t. Settlement. “Settlement” shall refer to this Agreement to settle the claims as set forth and embodied in this Agreement.
- u. Smith. “Smith” means defendant The Edward J. Smith and Valerie S. Smith Limited Family Partnership.

II. RECITALS

2. This class action was filed on March 12, 2014, and a First Amended Complaint was filed on October 1, 2014, asserting 13 claims for relief on behalf of plaintiffs and other current and former employees at the Restaurants, including *inter alia* claims for unpaid wages, minimum wages, overtime, failure to provide legally required meal periods and rest breaks, failure to pay all wages due to discharged and quitting employees, failure to maintain required records and provide accurate itemized wage statements, failure to indemnify employees for necessary business expenditures, negligence, unfair and unlawful business practices, PAGA penalties, and declaratory judgment. Plaintiffs’ First Amended Complaint named as defendants McDonald’s Corp., McDonald’s U.S.A., LLC, McDonald’s Restaurants of California, Inc., Smith, and Does 1 through 100, inclusive.
3. On April 6, 2015, plaintiffs filed a motion for class certification, ECF Docket No. 70, which the Court granted in part and denied in part on July 7, 2016, ECF Docket No. 319. On May 12, 2015, McDonald’s filed a motion for summary judgment, ECF Docket No. 129, which the Court granted in part and denied in part on September 25, 2015, ECF Docket No. 289. On or about September 6, 2016, pursuant to the Court’s order regarding class certification, CPT Group, Inc. provided notice of the Action and

instructions for opting out of the Class. The deadline for opting out of the Class is November 5, 2016.

4. Without admitting or conceding any liability or damages, McDonald's has entered into this Settlement to fully, finally, and forever resolve this litigation as to the claims between the Parties. McDonald's denies that it has violated any law, breached any agreement or obligation to the plaintiffs or the Class Members, or engaged in any wrongdoing with respect to the plaintiffs or the Class Members. The Parties agree that neither this Agreement nor any actions undertaken by McDonald's in satisfaction of the Agreement shall constitute, or be construed as, an admission of any liability or wrongdoing.
5. This Settlement was reached after extensive investigation, discovery, motion practice, formal mediation under the auspices of U.S. Magistrate Judge Jacqueline Scott Corley, and arms-length settlement negotiations between experienced counsel for the Parties. Class Representatives and Class Counsel have concluded that the terms of the Settlement are fair, reasonable, and adequate, that the Settlement represents a good-faith settlement under California law, and that settlement on the terms described herein is in the best interest of the Class Members in light of all known facts and circumstances.
6. To settle all claims brought against it by Plaintiffs and Class Members in the Action, McDonald's shall:
 - a. Pay One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000) ("Class Payment") to be allocated among Plaintiffs, Class Members, and the California Labor and Workforce Development Agency ("LWDA") as set forth below;
 - b. Separately pay Class Counsel all court-approved attorneys' fees and costs, which

shall not exceed Two Million Dollars (\$2,000,000) (“Attorneys’ Fees and Costs”);
and

- c. Separately pay all costs of notice and claims administration, subject to the terms and conditions set forth below and such further terms and conditions as the Parties mutually agree.

The payments set forth in this paragraph shall be in addition to all payments that have been and shall be made by defendant Smith, including those made pursuant to the separate settlement agreement between Plaintiffs and Smith that the Court approved on August 31, 2016 (ECF Docket No. 363).

NOW THEREFORE, in consideration of the recitals listed above and the promises, releases, and warranties set forth below, and with the Parties’ intent to be legally bound and to acknowledge the sufficiency of the consideration and undertakings set forth herein, the Class Representatives, individually and on behalf of the Class Members and the State of California, on the one hand, and McDonald’s, on the other hand, agree that the Action shall be and is finally and fully compromised and settled as to the Released Parties, on the terms and conditions set forth herein:

III. PRELIMINARY APPROVAL, CLASS NOTICE, CLAIMS PROCESS, FINAL SETTLEMENT HEARING, AND EFFECTIVE DATE

7. Procedures. As part of this Agreement, the Parties agree to the following procedures for obtaining the Court’s preliminary approval of the Settlement, notifying Class Members, obtaining final Court approval of the Settlement, and administering the Settlement. The Parties shall cooperate in good faith in attempting to coordinate timelines and distribution schedules for this Settlement and the separate settlement with Smith in this Action, to minimize costs and promote the efficient administration of the settlements.
8. Preliminary Approval of Settlement and Request for Preliminary Approval Order.

Promptly after execution of this Agreement, Class Representatives shall file a motion requesting that the Court enter the Preliminary Approval Order preliminarily approving the proposed settlement, approving notice, and setting a date for the Final Settlement Hearing. McDonald's agrees not to oppose the motion for preliminary approval of the Settlement provided such motion and supporting papers are consistent with the terms of this Agreement. The requested Preliminary Approval Order shall:

- a. Preliminarily approve the proposed Settlement and this Agreement;
- b. Approve the plan for providing notice to Class Members under this Agreement, including the form of the Class Notice and the Claim Form (needed only from Class Members whose mail is undeliverable or who are not on the Class List);
- c. Approve the procedures for distribution of payments to Class Members under this Agreement;
- d. Approve the procedures for Class Members to object to the Settlement, opt out of the Settlement, and file Claim Forms, including by setting appropriate deadlines; and
- e. Schedule the Final Settlement Hearing for final approval of this Settlement and entry of Final Judgment.

Class Counsel shall provide a draft of any proposed Preliminary Approval Order at least two business days before the requested Preliminary Approval Order is submitted to the Court.

9. Notice of Settlement to Appropriate Government Officials. Pursuant to Cal. Labor Code § 2699(l)(2), Class Counsel shall notify the LWDA of the Settlement upon the filing of a motion for preliminary approval of the Settlement. Within ten (10) calendar days after the filing of a motion for preliminary approval of the Settlement with the

Court, the Claims Administrator shall provide appropriate notice of the Settlement to appropriate state and federal officials in conformance with the Class Action Fairness Act.

10. Class Notice. Notice of the Settlement shall be provided to Class Members. The Parties believe and agree that the following procedures for such notice provide the best practicable notice to Class Members.
 - a. The Claims Administrator shall be responsible for preparing, printing, and mailing to all Class Members an individualized version of the Class Notice approved by the Court and any such other materials as may be required to be distributed, all as approved and directed by the Court.
 - b. Not later than ten (10) business days after the Court's entry of an Order of Preliminary Approval, the Claims Administrator shall prepare, in electronic form, a spreadsheet (the "Class List") that contains the name, telephone number, last known mailing address and email address, and starting and ending employment dates during the Class Period (including multiple starting and ending employment dates if applicable) of every Class Member, and shall provide the Parties' counsel with a copy. The Claims Administrator shall not include social security numbers on the Class List provided to the Parties' counsel. The Claims Administrator shall include in the Class List any updated information generated pursuant to the class notice and opt-out procedure approved by the Court on August 11, 2016.
 - c. Based on the information in the Class List and allocation of the Class Payment set forth herein, the Claims Administrator shall promptly calculate an Estimated Settlement Amount for every Class Member, to be included in the individualized Notice to be sent to that Class Member, and shall prepare and email a spreadsheet

setting forth those calculations to Class Counsel and McDonald's counsel no fewer than two days before mailing the Class Notice to Class Members.

- d. No later than ten (10) business days after preparation of the information described in subsection (b) above, the Claims Administrator shall mail the Class Notice to every individual on the Class List whose address information is known. This mailing shall be sent by first-class U.S. mail, postage pre-paid. Any returned envelopes from the initial mailing with forwarding addresses shall be used by the Claims Administrator to re-mail the Class Notice. The Claims Administrator shall forward the Class Notice to the new address within five (5) calendar days of receipt of the forwarding address. No later than (10) business days after receipt of the Class List, the Claims Administrator shall also email a copy of the Class Notice to all Class Members whose email addresses are known. The Claims Administrator shall track and report all "bounce back" emails, but shall be under no obligation to search for different email addresses.
- e. Except as otherwise provided herein, the Class Notice:
 - i. Shall state that the deadline for submitting any objection to the Settlement or for opting out of the Settlement shall be sixty (60) calendar days after the postmark date of the initial mailing of Class Notice;
 - ii. Shall state the recipient's Estimated Settlement Amount, as calculated by the Claims Administrator;
 - iii. Shall inform the recipient of the need to provide updated contact information to the Claims Administrator until such time as all settlement funds have been distributed;

- iv. Shall include a summary of the release and waiver of claims against the Released Parties, and shall inform the recipient that any Class Member who does not timely opt out shall be deemed to have released all covered claims against the Released Parties;
 - v. Shall explain that a Class Member who is not identified on the Class List or whose Class Notice is returned to the Claims Administrator by the post office after mailing shall not be eligible to share in the settlement funds unless that individual submits a Claim Form to the Claims Administrator no later than ninety (90) calendar days after the postmark date of the Class Notice.
 - vi. Shall explain that no Claim Form will be required from any individual on the Class List to whom a Class Notice is sent and is not returned.
- f. For any Class Notice that is returned by the post office as undeliverable or addressee unknown, the Claims Administrator shall perform a skip trace that shall include: (1) processing the name and address through the United States Postal Service's National Change of Address database; (2) performing address searches using such public and proprietary electronic resources as are available to the Claims Administrator that lawfully collect address data from various sources such as utility records, property tax records, motor vehicle registration records, and credit bureaus; and (3) calling last-known telephone numbers (and telephone numbers updated through public and proprietary databases) to obtain accurate contact information. If the Claims Administrator is successful in locating an alternate subsequent address or addresses, the Claims Administrator shall forward

such Class Notice to the new address(es) within ten (10) calendar days of receipt of the undeliverable notice.

g. The Parties intend that all reasonable means be used to maximize the likelihood that all Class Members will receive the Class Notice.

h. In addition to the foregoing, the Parties may, but are not obligated to, supplement the mailed Class Notice with reasonable alternative forms of notice.

11. Objecting to the Settlement. Any Class Member may object to the Settlement. The Class Notice shall provide that Class Members who wish to object to the Settlement must mail a written statement of objection subject to the provisions set forth below:

a. Any such objection must be filed with the clerk of the Court and served on counsel for the Parties identified in the Class Notice no later than sixty (60) calendar days after the postmark date of the initial mailing of Class Notice.

b. The postmark date of the mailing shall be the exclusive means for determining whether an objection is timely.

c. The objection must state the basis for the objection.

d. Class Members who fail to make objections in the time and manner specified shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement, and the Settlement shall be fully binding upon them (unless they validly opt out).

12. Claim Form Submission. Absent a showing of good cause, as determined by Class Counsel, no Claim Form shall be honored if postmarked more than ninety (90) days after the date the Class Notice is first mailed to Class Members. If a Claim Form is timely submitted but is deficient in one or more aspects, the Claims Administrator shall, within five (5) calendar days of receipt of the deficient form, notify the Parties'

counsel of receipt of the deficient form and shall return the form to the Class Member with a letter explaining the deficiencies and informing the Class Member that he or she shall have fourteen (14) calendar days from the date of the deficiency notice to correct the deficiencies and resubmit the Claim Form. This letter shall be provided in English and Spanish.

13. Opting Out of the Settlement.

- a. A Class Member may opt out of the Settlement by timely mailing a valid opt-out statement to the Claims Administrator. The procedures for opting out shall be the same procedures as set forth in the Court-approved notice mailed to the class on September 6, 2016, with the exception that the statement to be provided by the Class Member shall be: “I, [NAME], voluntarily choose not to participate in the settlement of the Certified Class Action against McDonald’s Corporation and McDonald’s USA, LLC, and hereby waive any rights I may have to participate in the settlement with McDonald’s Corporation, McDonald’s USA, LLC, and McDonald’s Restaurants of California, Inc. in the federal court lawsuit entitled *Ochoa v. McDonald’s Corp.*, N. D. Cal. No. 3:14-cv-02098-JD.”
- b. Absent a showing of good cause, as determined by the Claims Administrator after input from Class Counsel and McDonald’s, no opt-out statement shall be honored or valid if postmarked more than sixty (60) calendar days after the postmark date of the initial mailing of the Class Notice. Requests to opt out that do not include all required information shall be deemed null, void, and ineffective. If a Class Member files both an opt-out statement and a Claim Form, the opt-out statement shall be deemed invalid and the Class Member’s Claim Form and release of claims shall be valid and controlling.

c. Class Members who submit valid and timely requests to opt out of the Settlement shall not receive any payment pursuant to the Settlement, nor shall such Class Members be bound by the terms of the Settlement or the dismissal with prejudice of their claims against McDonald's pursuant to this Settlement.

14. Non-Interference with Claims Procedure and Settlement. The Parties and their counsel agree that they shall not seek to solicit or otherwise encourage Class Members to submit opt-out requests or objections to the Settlement or to appeal from preliminary or final approval of the Settlement.

15. Interim Reports by the Claims Administrator. No later than two (2) days prior to the deadline for filing a motion for final settlement approval, the Claims Administrator shall provide counsel for the Parties with a declaration setting forth: (a) its efforts to provide notice to the class and proof of mailing of the Class Notice and proof of mailing of appropriate notice of the Settlement to appropriate state and federal officials in conformance with the Class Action Fairness Act; (b) the total number of individuals on the Class List who were sent a Class Notice; (c) the total number of those individuals whose Class Notices were returned as undeliverable or addressee unknown; (d) the total number of those individuals whose Class Notices were subsequently sent to a corrected address; (e) the total number of Class Members who filed timely objections to the Settlement, along with the complete copies of all objections received, including the postmark dates for each objection; (f) the total number of individuals who requested a Claim Form; (g) the total number of individuals who submitted a Claim Form; (h) the total number of Class Members who submitted valid Claims Forms; (i) the total number of Class Members who submitted Claim Forms that were deficient, and how such deficiencies were resolved by the

Claims Administrator after conferring with counsel for the Parties; (j) the total number of Class Members who challenged the dates worked as reported on the Class Notice and the resolution of any such challenges; and (k) the total number of Class Members who filed valid requests to opt out, including complete copies of all such requests, and including the postmark dates for each. The Claims Administrator shall provide an updated declaration on these matters three (3) calendar days prior to the date of the Final Settlement Hearing if any changes or additions have occurred, and again the business day after the Effective Date of the Settlement or such other later date as the Court or the Parties may agree upon.

16. Final Settlement Hearing. After expiration of the deadlines for submitting objections, the Parties shall ask the Court to conduct a Final Settlement Hearing to determine final approval of the settlement and to enter the Final Judgment. Class Counsel will also seek an order determining the amounts properly payable for attorneys' fees and expenses and service payments, and any other matter as required herein.
17. Final Judgment. The Proposed Final Judgment to be submitted to the Court shall be in the form of Exhibit 3. The Parties shall not object to any final judgment that is substantially in the form of Exhibit 3.

IV. INJUNCTIVE RELIEF

18. The Parties recognize that Plaintiffs' settlement with Smith includes injunctive relief that establishes certain parameters regarding scheduling and/or timekeeping. The Parties recognize that Plaintiffs' settlement with Smith includes injunctive relief that establishes certain parameters regarding scheduling and/or timekeeping, and that McDonald's is not a party to the Smith settlement agreement and is not agreeing to be bound by the injunctive relief provisions of the Smith settlement agreement.

19. Within one month of preliminary approval of the Settlement, McDonald's shall develop and present to Plaintiffs' counsel for review and comment a training deck that McDonald's, within one month after final approval of the Settlement, shall make available and offer to Smith that McDonald's present to all Smith owners, supervisors, store managers, department managers, and shift managers. The training deck shall provide training on the following topics with respect to whatever ISP or e*Restaurant software is in use by Smith for scheduling and timekeeping purposes at the time of the training (hereinafter "Software"):

- a. How Software currently calculates and flags whether an employee's time punches reflect the number, length, and timing of meal periods and rest breaks that would satisfy the parameters set by Smith, including but not limited to any parameters established by Plaintiffs' settlement with Smith;
- b. Instructions on how Smith can change or customize the Labor Law settings in Software;
- c. Information explaining how Smith could identify shifts on which an employee's time punches reflect a meal period provided after five hours of work, shifts on which an employee's time punches reflect that a meal period or rest break has been combined with (or taken shortly before or after) another meal period or rest break, and shifts on which an employee's time punches reflect a rest break shortly before (e.g., within 10 minutes of) the end of the shift; and
- d. Information explaining how Smith could determine whether to pay an employee a premium wage because the employee's time punches reflect a shift that is missing a required meal period or rest break or reflect an untimely

meal period or rest break.

20. McDonald's shall provide the training deck described above to Plaintiffs' counsel for review and comment before providing the training to Smith. McDonald's shall review and accept Plaintiffs' counsel's reasonable, good faith requests for modification or clarification of the training deck.
21. Nothing in this agreement shall preclude McDonald's from making clear in this or any other training to Smith owners, supervisors, store managers, department managers, and shift managers that McDonald's does not directly, indirectly, or through an agent employ the workers in the Smith restaurants, and that Smith's use of Software for scheduling and timekeeping purposes is optional, and not required by McDonald's.
22. After such training has taken place, McDonald's will report to Plaintiffs' counsel the names, positions, and date of training for each Smith owner, supervisor, store manager, department manager, shift manager, and other Smith employee or agent who attends the training described above, to the extent McDonald's has such information.
23. Modification. Whenever possible, each provision and term of the injunctive relief provided herein shall be interpreted in such a manner as to be valid and enforceable; provided, however, that if any term or provision is determined to be or is rendered unenforceable after entry of final approval of the Settlement, all other terms and provisions shall remain unaffected, to the extent permitted by law. If the application of any term or provision to any specific person or circumstance should be determined to be invalid or unenforceable, the application of such term or provision to other persons or circumstances shall remain unaffected, to the extent permitted by law. Class Counsel and McDonald's counsel may jointly agree in writing to modify the terms of the injunctive relief provided herein, subject to Court approval.

V. SETTLEMENT FUNDS, CLAIMS PROCESSING, AND SETTLEMENT PAYMENT CALCULATION

24. Deposit of Funds into Joint Escrow. Within 30 days after the Court's preliminary approval of this settlement, McDonald's shall pay Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) into an interest-bearing escrow account for purposes of funding the settlement. This account shall be established as a Qualified Settlement Fund by the Claims Administrator, and shall be subject to joint control by McDonald's Counsel and Class Counsel. In the event the Court denies final approval of the settlement or an appeal leaves the settlement unenforceable, the Parties shall be returned to the same positions as existed at the time of this Agreement, and all funds in the escrow account provided for in this paragraph shall be returned to McDonald's.
25. Class Payment from the Qualified Settlement Fund. Payments from the Qualified Settlement Fund for the purposes set forth in this Agreement shall be made within fourteen (14) days of the Effective Date.
26. Subject to Court approval, and subject to any Service Payments provided for in this Agreement and approved by the Court, the Class Payment shall be allocated for the following payments:
- a. \$716,667 to Class Members for backpay, interest, and liquidated damages, to be distributed to Class Members based on a fixed amount per week for every week worked during the Class Period;
 - b. \$350,000 to Class Members for wage statement penalties to be distributed to Class Members based on a fixed amount per week for every week worked starting one year before the filing of the complaint (*i.e.*, March 12, 2013) through the end of the Class Period;
 - c. \$350,000 to Class Members for waiting time penalties, to be distributed to Class

Members based on a fixed per capita amount for each Class Member whose final paycheck was dated between three years before the filing of the complaint (*i.e.*, on or after March 12, 2011) and the end of the Class Period, and who was no longer a current worker as of the end of the Class Period;

- d. \$83,333 to Class Members for the employee portion of civil penalties under the California Labor Code Private Attorneys General Act (“PAGA”), Cal. Labor Code §§ 2698 *et seq.*, to be distributed to Class Members based on a fixed amount per week for every week worked starting one year before the filing of the complaint and plaintiffs’ notification letter to LWDA (*i.e.*, March 12, 2013) through the end of the Class Period; and
- e. \$250,000 to the California LWDA for the LWDA portion of penalties under PAGA.

Service payments to the named Plaintiffs, if approved by the Court, shall be made proportionally from each of the amounts stated above in subparagraphs (a) through (c) and shall not increase the total amounts that McDonald’s is required to pay under this agreement.

- 27. Any interest earned on the funds in the Qualified Settlement Fund created pursuant to this Agreement between the time of deposit and the time the Class Payment is paid to Class Members by the Claims Administrator shall be added to the total Class Payment and distributed proportionally among the payments provided for in subparagraphs (a) through (e) of paragraph 26.
- 28. No claims process shall be required of Plaintiffs or Class Members so long as their names are on the Class List and they have been sent a Class Notice that was not returned as undeliverable.

29. Checks shall be mailed by first class mail to the last known address of all Class Members. If any check is returned or not cashed, the Claims Administrator shall engage in reasonable skip tracing efforts.
30. Each check mailed to a Class Member shall plainly state on its face that the check must be cashed within 120 calendar days, and that any check uncashed after 120 calendar days will be invalid. If any check remains uncashed after forty-five (45) calendar days, the Claims Administrator shall send out a reminder postcard to the recipient. The Claims Administrator shall also provide counsel for the Parties with a list of all Class Members who have not cashed their checks. If any check remains uncashed after seventy-five (75) calendar days, the Claims Administrator shall call the recipient to remind him or her to cash the check. The Claims Administrator shall use skip-trace methods as necessary to obtain a working phone number for any such individual.
31. The amounts designated for all Class Members who do not cash their check and who cannot be located within 120 days after the date of distribution shall be redistributed on a pro rata basis to all other Class Members, subject to the cy pres provision of paragraph 39.
32. Class Members who do not cash their settlement checks within 120 calendar days after mailing by the Claims Administrator shall be deemed to have waived irrevocably any right in or claim to a settlement payment, but will still be bound by the Settlement. After all required distributions are made, the Claims Administrator may, with agreement by counsel for the Parties, make full or partial payment of the amount calculated to be due to any Class Member or Members who did not cash their settlement check(s) within 120 calendar days after mailing by the Claims

Administrator if sufficient funds from the Class Payment remain.

33. Application for Attorneys' Fees and Costs. Class Counsel intend to request that the Court approve an award of statutory attorneys' fees and costs pursuant to California law in an amount not to exceed \$2,000,000. No sooner than fourteen (14) days after the Effective Date, the Claims Administrator shall pay to Class Counsel the Attorneys' Fees and Costs awarded by the Court, including after any appeal, and shall return to McDonald's any portion of the \$2,000,000 paid into the Qualified Settlement Fund for attorneys' fees and costs that is not awarded by the Court. The Parties agree that regardless of any action taken by the Court or any appellate court with respect to attorneys' fees and expenses, the validity of the underlying Settlement shall not be affected.
34. Service Payments to Class Representatives. Class Counsel shall request that the Court approve service awards for distribution to Stephanie Ochoa, Ernestina Sandoval, Yadira Rodriguez, and Jasmine Hedgepeth in an amount not to exceed \$500 each. The Parties agree that regardless of any action taken by the Court with respect to such service awards, the validity of the underlying Settlement shall not be affected.
35. Claims Administration Costs. All costs and fees of the Claims Administrator shall be paid separately by McDonald's, in addition to all other payments required by this Settlement. All unresolved disputes relating to the Claims Administrator's performance of its duties shall be referred to the Court in this case, which shall have continuing jurisdiction over all terms and conditions of the Settlement until all payments and obligations contemplated by the Settlement have been fully satisfied and carried out. To the extent practicable and to reduce the expense of notice and claims administration, the Parties may agree to combine notice and/or claims

administration with the same process in the separate, court-approved settlement with defendant Smith, as long as combining such notice and/or claims administration does not cause any prejudice to Class Members.

36. Allocation of Each Settlement Payment and Tax Issues. Each payment of settlement funds to a Class Member, other than a service payment to a named Plaintiff, shall be allocated as follows: (1) twenty-four percent (24%) shall be allocated to wages (inclusive of payroll taxes, deductions, and contributions); (2) fourteen percent (14%) shall be allocated to interest; and (3) sixty-two percent (62%) shall be allocated to civil or statutory penalties or liquidated damages. Class counsel shall work with the Claims Administrator to determine appropriate tax withholding and tax reporting procedures. The Parties agree that McDonald's is not responsible for any tax obligations incurred by the Class Representatives, the Class Members, or Class Counsel as a result of this Settlement, and that McDonald's is not providing any tax advice to the Class Representatives, the Class Members, or Class Counsel.
37. Claims Processing. The Claims Administrator shall review all received Claim Forms and finalize the calculations of payments to be distributed to Class Members pursuant to this Settlement by reviewing the Class List as supplemented by the Claim Forms, and as updated by any verified challenges to Class Members' dates worked. No Claim Form will be accepted from any individual claiming to be a Class Member unless: (1) the individual is on the Class List; or (2) the individual submits documentation in conjunction with her or his Claim Form that the Claims Administrator concludes, and Class Counsel agree, is sufficient to establish that the individual is a Class Member.
38. Class Member Dates Worked and Challenges. The Class Notice shall be individualized and shall include a statement of the dates worked by the Class Member

receiving the notice, based on available records.

- a. If a Class Member does not challenge the information set forth in the Class Notice, the Class Member need not do anything further and payment shall be made to that Class Member based on the statements of the dates worked and the terms of this Agreement.
 - b. If a Class Member wishes to challenge the dates worked as set forth in the Class Notice, that Class Member shall submit a written, signed challenge along with any supporting documents to the Claims Administrator at the address provided on the Class Notice within ninety (90) calendar days of the postmark date of the initial mailing of the Class Notice. No challenge shall be timely if postmarked more than ninety (90) calendar days after the date the Class Notice is first mailed to Class Members.
 - c. Within five (5) calendar days from the date the Claims Administrator receives notice of the challenge, the Claims Administrator shall send to Class Counsel and McDonald's counsel a copy of the documentation submitted in connection with that dispute. Within five (5) calendar days from the date counsel receive that documentation, Class Counsel and McDonald's counsel shall meet and confer and make one or more recommendations to the Claims Administrator, which shall thereafter make a final and binding determination without hearing or right to appeal and shall communicate that determination to the Class Member, Class Counsel, and McDonald's counsel.
39. Non-Reversionary Settlement and Remainder. There shall be no reversion from the Class Payment. Any uncashed or unclaimed settlement check amounts shall be redistributed to Class Members in proportion to their allotted shares from the Class

Payment. If the amount of such funds to be redistributed does not exceed \$40,000, subject to Court approval, such funds shall be donated as a *cy pres* recipient to Bay Area Legal Aid.

VI. RELEASED CLAIMS AND COVENANTS NOT TO SUE

40. Mutual Releases. Except as otherwise provided herein, in consideration for the promises set forth herein, each of the named Plaintiffs and each Class Member on the one hand and McDonald's on the other hand, for themselves and their respective agents, heirs, predecessors, successors, assigns, representatives and attorneys, do hereby mutually waive, release, acquit and forever discharge each other from any and all claims that were alleged in this action, arise out of or are related to the allegations and claims alleged in the action, and/or could have been alleged based on the facts, matters, transactions, or occurrences alleged in the action through the date of this Agreement. Without limiting the foregoing, it is understood and agreed by the named Plaintiffs and McDonald's that, as a condition of this Agreement, they each hereby expressly waive and relinquish any and all employment-related claims, rights, or benefits that they may have under California Civil Code §1542, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor."
41. Mutual Covenants Not To Sue. The Class Representatives covenant and agree and the Class Members shall be deemed to have covenanted and agreed, on their own behalf on behalf of their agents, heirs, predecessors, successors, assigns, representatives, and attorneys, and on behalf of all Class Members: (i) not to instigate, commence, maintain or prosecute against any Released Party any Settled Claims in any court of

law, tribunal or adjudicative body anywhere in the world at any time now and in the future; and (ii) that the foregoing covenants, agreements and releases shall be a complete defense to any such Settled Claims against any of the Released Parties. Likewise, McDonald's covenants and agrees on its own behalf and on behalf of its agents, heirs, predecessors, successors, assigns, representatives, and attorneys: (i) not to instigate, commence, maintain or prosecute against any Class Representative or Class Member any Settled Claims in any court of law, tribunal or adjudicative body anywhere in the world at any time now and in the future; and (ii) that the foregoing covenants, agreements and releases shall be a complete defense to any such Settled Claims against any Class Representative or Class Member.

VII. CONFIDENTIALITY

42. The Parties shall keep confidential all settlement communications regarding the negotiation and drafting of the Agreement. The Parties understand that the named Plaintiffs and Class Counsel reserve the right to report on this Settlement in their law firm websites and other public communications if and when the Settlement becomes a matter of public record but will limit any such communications about the Settlement to stating that the Parties reached a mutually acceptable resolution of the lawsuit, describing the terms of the Settlement, and/or providing their opinions about why the Settlement is fair, reasonable and/or significant based on the terms of the Settlement, the present status of the case, and the Court's prior rulings. McDonald's, named Plaintiffs and their respective counsel will not issue a press release or otherwise initiate contact with the media regarding the Settlement, but if asked about the Settlement by the media, McDonald's, named Plaintiffs and their counsel reserve the right to inform the media that the Parties reached a mutually acceptable resolution of

the lawsuit, to describe the terms of the Settlement, and/or to provide their opinions about why the Settlement is fair, reasonable and/or significant based on the terms of the Settlement, the present status of the case, and the Court's prior rulings. Nothing in this paragraph shall restrict Plaintiffs or Class Counsel from making any disclosures necessary to seek Court approval or to communicate with Class Members.

VIII. TERMINATION OR OTHER FAILURE OF SETTLEMENT

43. Automatic Voiding of Agreement if Settlement Not Finalized. In the event (i) the Court does not preliminarily approve the Settlement; (ii) the Court does not grant final approval to the proposed settlement in accordance with its terms; (iii) the Court does not enter a Final Judgment consistent with the terms of this Agreement; or (iv) the Effective Date does not occur or the Settlement does not become final for any other reason, the Settlement shall be null and void and the Parties agree that any order entered by the Court in furtherance of this Settlement should be treated as void *ab initio*. In such case, the Parties shall take all possible steps to return to the status quo as if the Parties had not entered into this Settlement. In such event, this Agreement, all negotiations, Court orders, and proceedings relating thereto shall be without prejudice to the rights of the Parties hereto, and all evidence relating to the Agreement and all negotiations shall not be admissible or discoverable in the Action, in any other litigation, or otherwise. Any funds used or to be used for the Settlement shall be returned to McDonald's, with the exception of amounts already paid by McDonald's or owing from McDonald's to the Claims Administrator for fees and costs actually incurred for services already performed.

IX. MISCELLANEOUS

44. No Admission of Liability or Wrongdoing. The Parties acknowledge that plaintiffs

contend McDonald's is legally responsible for having violated their rights under the California Labor Code, IWC Wage Order, and Unfair Competition Law; and the Parties further acknowledge that McDonald's expressly denies that it has violated any law, breached any agreement or obligation to the plaintiffs or the Class Members, or engaged in any wrongdoing with respect to the plaintiffs or the Class Members.

The Parties agree that neither this Agreement nor any actions undertaken by McDonald's in satisfaction of the Agreement shall constitute, or be construed as, an admission of any liability or wrongdoing. The Parties further agree and recognize that this Agreement shall not be admissible as evidence, offered as evidence, or cited or referred to by McDonald's or plaintiffs in any other action or proceeding, except in an action or proceeding brought to enforce its terms or by McDonald's in defense of any claims brought by the plaintiffs or any Class Members.

45. Binding Effect of Agreement on Class Members. Upon the Effective Date, all Class Members shall be bound by this Agreement, all Class Members' Settled Claims shall be dismissed with prejudice as against McDonald's, and all Settled Claims shall be released as against the Released Parties.

46. Binding upon Successors and Assigns. Except as provided herein, this Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto and the Released Parties as defined herein.

47. Good Faith Settlement. This Settlement has been negotiated and entered into between the Parties through arms-length negotiations, and it is made in good faith, including within the meaning of California Code of Civil Procedure §§877, *et seq.* and any comparable provisions provided under the laws of any state or territory of the United States, whether statutory or judicial decision, which is equivalent or similar to such

California code sections.

48. Amendment or Waiver Only in Writing. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest. No rights hereunder may be waived except in writing.
49. Entire Agreement. This Agreement and any attached exhibits constitute the entire agreement between the Parties relating to the Settlement and the related transactions contemplated herein. All prior or contemporaneous agreements, understandings and statements, whether oral or written, and whether by a party or its counsel, are merged herein. No oral or written representations, warranties, or inducements have been made to any party concerning this Agreement or its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.
50. Execution. This Agreement shall become enforceable in accordance with its terms upon its execution by: (a) the Class Representatives; (b) Class Counsel on behalf of the Class Representatives and the Class (approved as to form); (c) McDonald's; and (d) counsel for McDonald's (approved as to form).
51. Authorization to Execute Agreement and Effectuate Settlement and Agreement to Cooperate. Counsel for all Parties hereto warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their respective counsel shall cooperate with each other and use their best efforts to effect the implementation of this Agreement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement or on any supplemental

provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of the Court to resolve such disagreement. The person or persons signing this Agreement on behalf of McDonald's represents and warrants that he or she is authorized to sign this Agreement on behalf of McDonald's.

52. No Prior Assignment. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein released and discharged except as set forth herein.
53. Governing Law. This Agreement shall be governed by, construed, interpreted, and enforced in accordance with the laws of the State of California, except to the extent that federal law requires federal law to govern.
54. Counterparts. This Agreement may be executed in one or more counterparts and by facsimile. All executed copies of this Agreement and photocopies thereof (including facsimile copies of signature pages) shall have the same force and effect and be as legally binding and enforceable as the original.
55. Exhibits. The terms of this Agreement include the terms set forth in the attached Exhibits 1, 2, and 3, which are incorporated by this reference as though fully set forth herein. The exhibits to this Agreement are an integral part of the Agreement.
56. Construction. The Parties have reached this Agreement through formal mediation followed by extensive arms-length negotiations. This Agreement has been drafted jointly by counsel for the Parties. Hence, in any construction or interpretation of this Agreement, the Agreement shall not be construed against either party as the principal drafter of the Agreement.

57. Retention of Jurisdiction. The Parties stipulate that the Court shall retain jurisdiction over the Parties to enforce the terms of this Agreement and all aspects of the Parties' settlement until performance in full of all terms of the Agreement.
58. No Signature Required by Class Members. Because the Class Members are so numerous, it is impossible or impractical to have each one execute this Agreement. The Class Notice shall advise such persons of the binding nature of the releases contained herein, and this Agreement shall have the same force and effect as if this Agreement were executed by each Class Member.
59. Titles and Captions of No Force. Paragraph titles or captions contained herein are inserted for convenience and ease of reference and do not define, limit, extend, or describe the scope of the terms of the Agreement and its provisions.
60. Mutual Cooperation. The Parties hereto agree to cooperate with each other to accomplish the terms of this Agreement, including but not limited to executing further documents and taking such other action as may reasonably be necessary to implement and effectuate the terms of this Agreement.
61. Invalid without Court Approval. This Agreement is subject to approval by the Court. In the event the Settlement is not approved, it shall be deemed null and void, of no force and effect, and the Parties represent, warrant, and covenant that in such event it shall not be admitted in the Action as evidence, or used as a basis for obtaining discovery in the Action.


IT IS SO STIPULATED AND AGREED.

Dated: 10, 26, 2016

By: Stephie Ochoa
Stephanie Ochoa

Dated: 10/26, 2016

By:


Ernestina Sandoval

Dated: _____, 2016

By:

Yadira Rodriguez

Dated: _____, 2016

By:

Jasmine Hedgepeth

Dated: _____, 2016

By:

Altshuler Berzon LLP
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By:

Cohen Milstein Sellers & Toll PLLC
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By:

McDonald's U.S.A., L.L.C.

Dated: _____, 2016

By:

McDonald's Corp.

Dated: _____, 2016

By:

McDonald's Restaurants of California, Inc.

Dated: _____, 2016

By:

Quinn Emanuel Urquhart & Sullivan LLP
Counsel for McDonald's U.S.A., L.L.C.;
McDonald's Corp.; and McDonald's Restaurants
of California, Inc.
(Approved as to form only)

Dated: _____, 2016

By: _____
Ernestina Sandoval

Dated: 10/26, 2016

By: *Yadira Rodriguez*
Yadira Rodriguez

Dated: _____, 2016

By: _____
Jasmine Hedgepeth

Dated: _____, 2016

By: _____
Altshuler Berzon LLP
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By: _____
Cohen Milstein Sellers & Toll PLLC
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By: _____
McDonald's U.S.A., L.L.C.

Dated: _____, 2016

By: _____
McDonald's Corp.

Dated: _____, 2016

By: _____
McDonald's Restaurants of California, Inc.

Dated: _____, 2016

By: _____
Quinn Emanuel Urquhart & Sullivan LLP
Counsel for McDonald's U.S.A., L.L.C.;
McDonald's Corp.; and McDonald's Restaurants
of California, Inc.
(Approved as to form only)

Dated: _____, 2016

By: _____
Ernestina Sandoval

Dated: _____, 2016

By: _____
Yadira Rodriguez

Dated: Oct 26, 2016

By:  _____
Jasmine Hedgepeth

Dated: _____, 2016

By: _____
Altshuler Berzon LLP
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By: _____
Cohen Milstein Sellers & Toll PLLC
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

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McDonald's U.S.A., L.L.C.

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By: _____
McDonald's Corp.

Dated: _____, 2016

By: _____
McDonald's Restaurants of California, Inc.

Dated: _____, 2016

By: _____
Quinn Emanuel Urquhart & Sullivan LLP
Counsel for McDonald's U.S.A., L.L.C.;
McDonald's Corp.; and McDonald's Restaurants
of California, Inc.
(Approved as to form only)

Dated: _____, 2016

By: _____
Ernestina Sandoval


Dated: _____, 2016

By: _____
Yadira Rodriguez

Dated: _____, 2016

By: _____
Jasmine Hedgepeth

Dated: October 27, 2016

By:  _____
Altshuler Berzon LLP
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By: _____
Cohen Milstein Sellers & Toll PLLC
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By: _____
McDonald's U.S.A., L.L.C.

Dated: _____, 2016

By: _____
McDonald's Corp.

Dated: _____, 2016

By: _____
McDonald's Restaurants of California, Inc.

Dated: _____, 2016

By: _____
Quinn Emanuel Urquhart & Sullivan LLP
Counsel for McDonald's U.S.A., L.L.C.;
McDonald's Corp.; and McDonald's Restaurants
of California, Inc.
(Approved as to form only)

Dated: _____, 2016

By: _____
Ernestina Sandoval

Dated: _____, 2016

By: _____
Yadira Rodriguez

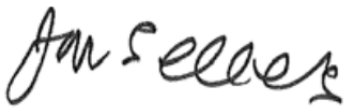
Dated: _____, 2016

By: _____
Jasmine Hedgepeth

Dated: _____, 2016

By: _____
Altshuler Berzon LLP
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: 10/27, 2016

By: 
Cohen Milstein Sellers & Toll PLLC
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By: _____
McDonald's U.S.A., L.L.C.

Dated: _____, 2016

By: _____
McDonald's Corp.

Dated: _____, 2016

By: _____
McDonald's Restaurants of California, Inc.

Dated: _____, 2016

By: _____
Quinn Emanuel Urquhart & Sullivan LLP
Counsel for McDonald's U.S.A., L.L.C.;
McDonald's Corp.; and McDonald's Restaurants
of California, Inc.
(Approved as to form only)

Dated: _____, 2016

By: _____
Ernestina Sandoval

Dated: _____, 2016

By: _____
Yadira Rodriguez

Dated: _____, 2016

By: _____
Jasmine Hedgepeth

Dated: _____, 2016

By: _____
Altshuler Berzon LLP
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By: _____
Cohen Milstein Sellers & Toll PLLC
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: 10/27, 2016

By: Hal Merck (SV)
McDonald's U.S.A., L.L.C.

Dated: 10/27, 2016

By: Hal Merck
McDonald's Corp.

Dated: 10/27, 2016

By: Hal Merck
McDonald's Restaurants of California, Inc.

Dated: _____, 2016

By: _____
Quinn Emanuel Urquhart & Sullivan LLP
Counsel for McDonald's U.S.A., L.L.C.;
McDonald's Corp.; and McDonald's Restaurants
of California, Inc.
(Approved as to form only)

Dated: _____, 2016

By: _____
Ernestina Sandoval

Dated: _____, 2016

By: _____
Yadira Rodriguez

Dated: _____, 2016

By: _____
Jasmine Hedgepeth

Dated: _____, 2016

By: _____
Altshuler Berzon LLP
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By: _____
Cohen Milstein Sellers & Toll PLLC
Counsel for Class Representatives and the Class
(Approved as to form only)

Dated: _____, 2016

By: _____
McDonald's U.S.A., L.L.C.


Dated: _____, 2016

By: _____
McDonald's Corp.

Dated: _____, 2016

By: _____
McDonald's Restaurants of California, Inc.

Dated: _____, 2016

By:  _____
Quinn Emanuel Urquhart & Sullivan LLP
Counsel for McDonald's U.S.A., L.L.C.;
McDonald's Corp.; and McDonald's Restaurants
of California, Inc.
(Approved as to form only)