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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

GABRIELLE BOYD, an individual, on behalf
of herself, and on behalf of all persons
similarly situated,

Plaintiff,

vs.

BLUESTONE LANE HOLDINGS, LLC, a
Delaware limited liability company;
BLUESTONE LANE NY LLC, a New York
limited liability company; and DOES 1
through 50, Inclusive,

Defendants.

Case No. CGC-20-585787

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS AND PAGA ACTION
SETTLEMENT**

Date: August 31, 2022

Time: 9:30 a.m.

Judge: Hon. Richard B. Ulmer

Dept.: 302

1 I, Jean-Claude Lapuyade, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am counsel of record for
5 Plaintiff GABRIELLE BOYD (hereafter "Plaintiff" or "Class Representative") in this wage and hour
6 class action filed against Defendant BLUESTONE LANE HOLDINGS, LLC, and Defendant
7 BLUESTONE LANE NY LLC (hereinafter "Defendants").

8 2. This declaration is being submitted in support of Plaintiff's Motion for Final Approval of
9 Class Action Settlement.

10 3. Attached hereto as **Exhibit "A"** are true and correct copies of the fully executed Joint
11 Stipulation of Settlement of Class Action Claims and Release of Claims (hereinafter collectively
12 "Settlement Agreement").

13 4. Attached hereto as **Exhibit "B"** is a true and correct copy of the conformed April 26,
14 2022, Preliminary Approval Order.

15 5. Attached hereto as **Exhibit "C"** is a true and correct copy of the March 30, 2022, proof
16 of filing the proposed Settlement with the LWDA.

17 6. Attached hereto as **Exhibit "D"** is true and correct copy of the August 9, 2022, proof of
18 filing this motion seeking final approval of this Settlement with the LWDA.

19 **I. INTRODUCTION**

20 7. An objective evaluation of the proposed settlement of Two Hundred Sixty Thousand
21 Dollars (\$260,000.00) ("Gross Settlement Sum") confirms that the relief negotiated on behalf of the
22 Settlement Class is fair, reasonable, and valuable. The Settlement is a product of informed, adversarial,
23 and non-collusive negotiations, between experienced counsel, and presided over by Steven Serratore,
24 Esq., a well-respected wage and hour class action mediator. After deducting any Court-approved
25 attorneys' fees and costs, class representative incentive payments, administration costs, and the
26 payments to the Labor & Workforce Development Agency ("LWDA"), the net settlement fund shall be
27 distributed to the Settlement Class based on the number of Workweeks they worked while employed

by Defendants during the Class Period. *The Settlement Class greeted news of the Settlement with overwhelming approval as 100% of the Settlement Class choose to participate in the Settlement.* There are zero opt-outs and zero objections to the Settlement. The unanimous approval by the Settlement Class evidences the clear fairness and reasonableness of the Settlement.

8. This Settlement provides substantial recovery for Defendants' alleged wage and hour violations. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount of approximately \$119,833.33. This will result in an average Individual Settlement Payment of **\$182.67** and high payment of **\$1,404.38**.

9. The relief offered by the Settlement is immediate and is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, the Settlement Class will not have to wait (possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain litigation.

10. As discussed below, the proposed Settlement satisfies all criteria for final settlement approval under California law and falls well within the range of reasonableness. Accordingly, the Class Representative and Class Counsel respectfully request this Court grant final approval of the Agreement and, entry of the proposed Final Approval Order and Judgment.

II. OVERVIEW OF THE LITIGATION

11. Defendants operate Bluestone Lane, a chain of coffee shops throughout the United States, including California. Plaintiff worked for Defendants as a non-exempt employee from November 2018 to March 2020. At all times during her employment, Plaintiff earned an hourly wage and was entitled to tips, legally compliant meal and rest periods, and minimum, regular, and overtime wages for all hours worked. Throughout her employment, Plaintiff was subject to Defendants' written policies and procedures contained in, among other documents, Defendants' Team Member Handbook.

12. Generally, Plaintiff claims that Defendants failed to pay her wages, including overtime compensation and tips, and failed to provide compliant meal and rest periods. Defendants forcefully deny liability for each of Plaintiff's claims. Further, Defendants assert that they fully complied with all

1 applicable employment laws and raised several other significant defenses to Plaintiff's claims,
2 including, but not limited to, facially compliant meal and rest period policies.

3 13. On July 27, 2020, Plaintiff filed a Notice of Violations ("PAGA Notice") with the Labor
4 and Workforce Development Agency ("LWDA") and served the same on Defendants. Plaintiff's PAGA
5 Notice set forth the facts and theories supporting Defendants' alleged violations of various California
6 Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and of her intent to
7 pursue claims under the California Labor Code Private Attorneys General Act, Cal. Lab. Code sections
8 2698, *et seq.* ("PAGA").

9 14. On July 28, 2020, Plaintiff filed a class action complaint in the San Francisco Superior
10 Court, Case Number CGC-20-585787 for: (1) Unfair Competition in Violation of Business and
11 Professions Code §§ 17200, *et seq.*; (2) failure to pay overtime wages in violation of California Labor
12 Code §§ 510 *et seq.*; (3) failure to pay minimum wages in violation of California Labor Code §§ 1194,
13 1197, and 1197.1; (4) failure to provide required meal periods in violation of California Labor Code §§
14 226.7 and 512; (5) failure to provide required rest periods in violation of California Labor Code §§
15 226.7 and 512; (6) failure to provide accurate itemized wage statements in violation of California Labor
16 Code § 226; (7) failure to provide wages when due in violation of California Labor Code §§ 201, 202,
17 and 203; and (8) failure to provide gratuities in violation of California Labor Code § 351. On July 2,
18 2021, Plaintiff filed a First Amended Complaint to add a ninth cause of action for violations of the
19 California Labor Code Private Attorney General Act ("PAGA").

20 15. The parties agreed to mediation the action. To prepare for mediation, Defendants agreed
21 to informally produce certain documents and data points subject to the mediation privilege, including
22 but not limited to, a sample of the Class Members' time and payroll data. As discussed *infra*, Plaintiff's
23 counsel retained the Berger Consulting Group ("BCG"), to analyze Defendants' time and payroll data.

24 16. On October 4, 2021, the Parties participated in a mediation presided over Steven
25 Serratore, Esq., a well-respected wage and hour class action mediator. The mediation concluded
26 without a settlement, but the Parties, represented by its respective counsel, reached a settlement
27

thereafter with Mediator Serratore's assistance. The Parties subsequently drafted and negotiated a long-form settlement which is the subject of the instant motion.

17. The Court preliminarily approved an initial Gross Settlement Sum of Two Hundred Sixty Thousand Dollars (\$260,000.00) based on a total estimated 14,000 Workweeks worked by the Class during the Class Period. The Gross Settlement Sum shall be used: (1) to satisfy Individual Settlement Payments; (2) to satisfy the Class Representative Service Award; (3) to satisfy the Class Counsel Award; (4) to satisfy the PAGA Settlement; and (5) to satisfy the Settlement Administration Costs incurred in this action.

18. As explained in further detail below, the Settlement is fair, adequate, and reasonable to the class and should be granted final approval. This is evidenced by the unanimous approval of the Settlement by the Settlement Class and absence of any objections to the Settlement.

19. Further supporting final approval, the average Individual Settlement Payment of \$182.67 is comparable to settlement payments in similar wage and hour class actions. This result is particularly favorable considering that liability and certification were far from certain. Given the complexities of this case, the defenses asserted, the uncertainty of class certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair, reasonable, and adequate, and should be granted final approval.

III. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE

A. Adequate Investigation

20. Months before filing the Action, Class Counsel began its pre-filing investigation into Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with Plaintiff. As part of the interview process, Plaintiff produced numerous documents related to her employment, including portions of Defendants' handbooks, compensation policies, and time and payroll records. At the conclusion of the interviews, Class Counsel determined that each of Plaintiff's complaints justified further inquiry.

21. To prepare for mediation, Class Counsel requested several documents and data points to further evaluate Plaintiff's claims and Defendants' liability exposure to the Settlement Class Members.

1 In response, Defendants produced, among other things, time, payroll, and policy records, as well as data
2 regarding the number of Class Members, workweeks, and average rate of pay for a significant sample
3 of the Settlement Class Members.

4 22. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class
5 Members' payroll and time data. BCG provides data analysis and damage modeling consulting services
6 specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed
7 and experienced experts in their fields and have provided their expertise on thousands of cases. Stated
8 differently, BCG is uniquely qualified to analyze Defendants' time and payroll data.

9 23. BCG analyzed Defendants' time and payroll data to assist in the development of various
10 damage models. Among other things, BCG determined the approximate number of work shifts,
11 workweeks, pay periods, average rate of pay, average length of shift, and average number of hours
12 worked per week and pay period during the Class Period. BCG also estimated the number of missed,
13 late, or truncated meal and rest periods, the amount of missed meal period premiums paid during the
14 Class Period, and the amount of off-the-clock work performed by the Class Members during the Class
15 Period.

16 24. In advance of mediation, Class Counsel created several damage models predicated on the
17 BCG analysis. Class Counsel's models calculated Defendants' potential liability exposure while
18 accounting for the uncertainties of continued litigation. These damage models informed and guided
19 Class Counsel during the mediated settlement discussions.

20 25. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
21 determining Plaintiff's suitability as a putative class representative through interviews, background
22 investigations, and analysis of his employment file; (2) evaluating all of Plaintiff's potential claims; (3)
23 researching similar wage and hour class actions as to the claims brought, the nature of the positions,
24 and the type of employer; (4) analyzing the Settlement Class's time and payroll records; (5) analyzing
25 Defendants' labor policies and practices; (6) researching settlements in similar cases as well as
26 outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and
27 estimating Defendants' liability for purposes of settlement; (8) drafting the mediation brief; and (9)

1 participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and
2 magnitude of the claims being settled, as well as the impediments to recovery, such as to make an
3 independent assessment of the reasonableness of the terms to which the Parties have agreed.

4 26. Class Counsel only agreed to enter the Settlement following his thorough investigation
5 and evaluation of Plaintiff's claims. Based on his investigation of the facts, applicable law, and
6 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
7 with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believes this
8 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
9 reasonable, and adequate, the Court should preliminarily approve the Settlement.

10 **B. The Parties Settled Following Mediation**

11 27. On October 4, 2021, the Parties participated in a mediation presided over Steven
12 Serratore, Esq., a well-respected wage and hour class action mediator. Mediator Serratore helped to
13 manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both
14 sides. The Parties made substantial progress with Mediator Serratore's assistance. Namely, the Parties
15 exchanged information regarding their respective claims and defenses, including their respective
16 evaluations of the damages. After a full day of arm's length and adversarial negotiations, the mediation
17 concluded without a settlement. Following the mediation, the Parties, represented by their respective
18 counsel, reached a settlement with the mediator's assistance. The amount of the service awards was not
19 negotiated until after the parties agreed to the Gross Settlement Sum and many other terms.

20 **C. Class Counsel is Experienced in Similar Litigation**

21 28. Plaintiff is represented by competent and experienced counsel to pursue her claims. I
22 established the JCL Law Firm, APC ("Firm"), in 2010. The Firm is a boutique plaintiff firm representing
23 aggrieved employees and consumers throughout California in wage and hour class actions and complex
24 multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade,
25 Esq. (Partner/Owner), Eduardo Garcia (Associate Attorney), Sydney Castillo-Johnson (Associate
26 Attorney), Tesla Stone (Paralegal), Jennifer Hemming (Legal Secretary), and Sara Christensen (Legal
27 Assistant).

1 29. I am qualified to represent the Plaintiff, the State of California, and the Aggrieved
2 Employees. I have extensive experience with wage and hour class and representative actions litigation
3 like this matter, and employment matters in general. Additionally, I have extensive complex mass tort
4 litigation experience and complex construction product liability experience. I can, will and have
5 adequately represented the interests of the Plaintiff, the State of California, and the Aggrieved
6 Employees throughout this action.

7 30. I have represented consumers and employees in California class actions, and complex
8 multi-party product liability actions exclusively for more than 14 years. I have been in practice as a
9 plaintiffs' civil litigation attorney since April 2007.

10 31. I have significant class counsel and collective action counsel experience. I served as class
11 and/or collective (PAGA) counsel in the following matters:

12 a. *Felix v. TVI, Inc., d.b.a. Savers*, Santa Clara Superior Court Case No.
13 21CV376407 (February 18, 2022) Hon. Sunil R. Kulkarni approved a \$1.8 million dollar
14 class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The
15 Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA
16 counsel for the State of California.

17 b. *Munoz v. AMTCR*, San Bernardino Superior Court Case No. CIV-DS2001914
18 (August 24, 2021) Hon. David Cohn approved a \$1.8 million dollar class and PAGA
19 settlement for, *inter alia*, inaccurate itemized wage statements. The JCL Law Firm, APC
20 acted as class counsel for the settlement class and as representative PAGA counsel the
21 State of California and the Aggrieved Employees.)

22 c. *Nunes v. Home Depot U.S.A., Inc.*, San Joaquin Superior Court Case No. STK-
23 CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross approved a \$1.5 million
24 dollar class and PAGA settlement for, *inter alia*, miscalculated meal period premiums
25 and appointed Jean-Claude Lapuyade, Esq, as Class Counsel.)

26 d. *Pillsbury v. T&T Restaurants CA, Inc.*, Del Norte Superior Court Case No. CVUJ-
27 20-1214 (December 14, 2021 – Hon. Darren McElfresh approved \$550 billing rate and
28

1 appointed Jean-Claude Lapuyade, Esq, as Class Counsel in a wage and hour class action
2 settlement.)

3 e. *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No.
4 CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and
5 PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed
6 the JCL Law Firm, APC as Class Counsel)

7 f. *Elias Kaser v. Aviation Consultants, Inc.*, Orange County Superior Court Case
8 No. 30-2021-01191204-CU-OE-CXC (September 22, 2021 – Hon. Peter J. Wilson
9 approved \$550 billing rate in a representative California Labor Code Private Attorney
10 General Act settlement).

11 g. *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case
12 No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA
13 settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as
14 class counsel for the settlement class and as representative PAGA counsel the State of
15 California and the Aggrieved Employees.)

16 h. *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior
17 Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a
18 PAGA Settlement negotiated on behalf of the State of California and the aggrieved
19 employees by the JCL Law Firm, APC.)

20 i. *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior
21 Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the
22 JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for,
23 *inter alia*, missed meal and rest periods.)

24 j. *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case
25 No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA
26 Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC
27 acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)
28

k. *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for, *inter alia*, off-the-clock work.)

l. *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for off-the-clock work.)

m. *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class counsel and granted final approval of wage and hour class action for meal period violations.)

n. *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC acted as lead counsel.)

o. *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement for, *inter alia*, missed meal and rest periods. JCL LAW Firm, APC, acted as lead counsel.)

p. *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)

q. *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)

r. *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)

s. *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No. 37-2018-00043601 (May 31, 2019 – Hon. Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)

t. *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement for *inter alia*, missed meal and rest periods and independent contractor misclassification.)

u. *Moschetto v. Pillow Global, Inc.* San Diego Superior Court, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm, APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)

v. *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)

w. *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);

x. *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm,

APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);

y. *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)

z. *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)

aa. *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);

bb. *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);

cc. *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);

dd. *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices arising out of Civil Code Section 1940.1);

32. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a favorable verdict for the firm's clients.

33. Finally, I have published appellate experience in *William Blanchette et al., v. The Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521.

34. Consequently, I have been named to the prestigious Thomson Reuters, Super Lawyers, Rising Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising Star list recognizes the top 2.5% of eligible attorneys. (see https://www.superlawyers.com/about/selection_process.html.)

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1 **D. Strength of Plaintiff's Case**

2 35. Here, the Settlement is clearly within the "ballpark" of reasonableness because the
3 Settlement provides a sizeable recovery to the Settlement Class Members and need not necessarily
4 obtain 100 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*,
5 91 Cal.App.4th at 250. While the Gross Settlement Sum of Two Hundred Sixty Thousand Dollars
6 (\$260,000.00) represents a discount on Defendants' potential exposure if Plaintiff established liability
7 on all claims and was awarded the full amount of the estimated damages at trial, this compromise is
8 reasonable because (1) the formidable defenses raised by Defendants presented a risk that could award
9 significantly less in damages than Plaintiff's estimate and (2) any theoretical post-trial recovery may
10 require many more years of litigation, resulting in added fees and costs without any guarantee of
11 recovery for the Class.

12 **E. Risks of Continued Litigation**

13 36. Although Class Counsel believes strongly in Plaintiff's claims, it would be misguided to
14 ignore the asserted defenses. If successful on any one its defenses, Defendant could defend the action
15 or, at least, drastically undercut Plaintiff's claims.

16 37. With respect to the most immediate challenge, i.e., class certification, the risks attendant
17 to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart*
18 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded
19 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed
20 the trial court to enter judgement in favor of the employer. *See also O'Conner v. Uber Technologies,*
21 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
22 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
23 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
24 1077, 1088 ("[T]he reason, if any, that employees might not take their breaks were predominantly
25 individualized questions of fact not susceptible to class treatment."); *Ali v. U.S.A. Cab Ltd.* (2009) 176
26 Cal.App.4th 1333, 1341 (affirming denial of certification because employees' declarations attesting to
27 having taken meal and rest breaks demonstrated that individualized inquiries were required to show

harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest period claims based on the predominance of individual issues). Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement.

38. Although Plaintiff is confident about the strength of her claims, Plaintiff nevertheless recognizes that Defendants have factual and legal defenses that, if successful, would potentially defeat or impair the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can drastically affect the value of Plaintiff's claims and, in fact, already has.

39. As demonstrated by the decisions in *Magadia, supra*, 999 F.3d 668, *O'Conner v. Uber Technologies* (N.D. Cal. 2018) 82 F.Supp.3d 1133 and *Duran v. U.S. Bank National Assn.* (2014) 59 Cal.4th 1, the complexities and duration of further litigation cannot be overstated. There is little doubt that if Defendants faced a large adverse judgement, Defendants undoubtedly have the resources to post a bond and appeal. A post-judgment appeal by Defendants would have required many more years to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh an uncertain result three or more years in the future.

40. Class Representative and Class Counsel recognize the expense and length of a trial against Defendants through possible appeals which could take another three years. In arriving at their informed belief that the present settlement is fair and adequate, Class Counsel accounted for the uncertain outcome and risk inherent in complex actions such as this one. Class Counsel is also mindful of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in the litigation. Moreover, post-trial motions and appeals would have been inevitable. Costs would have mounted, and recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. Class Representative and Class Counsel believe that the Settlement confers substantial

monetary and non-monetary benefits upon the Class. Based upon their evaluation, Class Representative and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the Class, is fair, reasonable, and adequate, and should be granted final approval.

F. The Gross Settlement Sum is Fair and Reasonable

41. The Gross Settlement Sum of \$260,000.00 in this case is fair and well within the range of recognized reasonableness. As detailed at the time of preliminary approval, the Gross Settlement Sum is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Class Counsel developed varied economic damages models measuring Defendants' liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. As detailed in greater depth during the preliminary approval process, Class Counsel projected a range of Defendants' liability exposure for the claims asserted on behalf of the Settlement Class. The Gross Settlement Sum represents approximately 27% of Defendants' *class-wide* liability exposure as estimated by Class Counsel at the time of mediation.

42. Clearly the goal of this litigation to obtain redress for the class has been met by this Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations between experienced counsel, the settlement is fair and reasonable, and is therefore entitled to final approval.

IV. THE PENALTIES UNDER PAGA ARE REASONABLE

43. Here, Plaintiff and Defendants negotiated a good faith PAGA Settlement in the amount of \$10,000 which is 3.8% of the Gross Settlement Sum. As illustrated above, this amount falls well within the range of approved PAGA Settlements. Seventy-Five percent (75%) of the PAGA Settlement (\$7,500) will be paid to the LWDA ("LWDA Payment") with the remaining twenty-five percent (25%) to be distributed to the Aggrieved Employees, which is within the range of PAGA penalties approved by courts and should be approved.

44. Further on March 30, 2022, Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing a copy of the Settlement and the Motion for Preliminary Approval with

1 the LWDA. On August 9, 2022, Plaintiff gave the LWDA notice of this motion seeking final approval
2 of this settlement.

3 I declare under the penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct. Executed this 9th day of August 2022, at San Diego, California.

5 **JCL LAW FIRM, APC**

6 By: 
7 Jean-Claude Lapuyade

EXHIBIT A

JEAN-CLAUDE LAPUYADE, ESQ. (SBN 248676)
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ATTORNEYS FOR BLUESTONE LANE HOLDINGS LLC
(ERRONEOUSLY SUED AS BLUESTONE LANE HOLDINGS, LLC)
AND BLUESTONE LANE NY LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

GABRIELLE BOYD, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

PLAINTIFF,

vs.

BLUESTONE LANE HOLDINGS, LLC, a
Delaware limited liability company;
BLUESTONE LANE NY LLC, a New York
limited liability company; and DOES 1
through 50, Inclusive;

DEFENDANTS.

Case No. CGC-20-585787

[Action Filed 07/28/2020]

**JOINT STIPULATION OF
SETTLEMENT OF CLASS ACTION
CLAIMS AND RELEASE OF CLAIMS**

This Stipulation of Class Action Settlement and Release of Claims is entered into by and between Plaintiff GABRIELLE BOYD (hereinafter “Plaintiff”), individually and on behalf of the Settlement Class, and Defendants BLUESTONE LANE HOLDINGS LLC (erroneously sued as Bluestone Lane Holdings, LLC) and BLUESTONE LANE NY LLC (hereinafter “Defendants”):

I. DEFINITIONS

- A. “Action” shall mean the putative class action lawsuit designated *Boyd v. Bluestone Lane Holdings, LLC, et al.*, San Francisco County Superior Court, Case No. CGC-20-585787, filed July 28, 2020.
- B. “Aggrieved Employees” shall mean all current and former non-exempt employees employed by Defendants in California during the PAGA Period.
- C. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of Class Action and Release of Claims.
- D. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and Shani Zakay of Zakay Law Group, APLC.
- E. “Class Counsel Award” means the award of fees and expenses that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff and the Settlement Class in the Action, consisting of attorneys’ fees up to one-third of the Gross Settlement Sum (currently estimated to be \$86,666.67 out of \$260,000.00) and costs of up to \$25,000.00. The Class Counsel Award shall be deducted from the Gross Settlement Sum. Class Counsel’s award for attorneys’ fees will be divided between Class Counsel (50% to JCL Law Firm APC and 50% to Zakay Law Group, APLC).
- F. “Class Data” means information regarding Class Members that Defendants will in good faith compile from their records and provide to the Settlement Administrator, subject to a protective order governing the disclosure of confidential information and entered by the Court. It shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class Member’s full name; last known address; Social Security Number; number of Workweeks; and, if applicable, number of PAGA Workweeks.

- 1 G. "Class Members" or the "Class" means all current and former non-exempt California
2 employees employed by Defendants during the Class Period.
- 3 H. "Class Period" means the period from April 6, 2016 to December 3, 2021.
- 4 I. "Class Representative Service Award" means the amount that the Court authorizes to
5 be paid to the Class Representative and not to exceed \$7,500.00, in recognition of her
6 efforts and risks in assisting with the prosecution of the Action and in exchange for
7 executing a General Release and waiver consistent with California Civil Code Section
8 1542.
- 9 J. "Class Representative" shall mean plaintiff GABRIELLE BOYD.
- 10 K. "Court" means the Superior Court for the State of California, County of San Francisco
11 currently presiding over the PAGA Action.
- 12 L. "Defendants" shall mean BLUESTONE LANE HOLDINGS LLC a Delaware
13 Limited Liability Company and BLUESTONE LANE NY LLC, a New York Limited
14 Liability Company.
- 15 M. "Effective Date" means the date, following entry by the Court of an order and
16 judgment finally approving this Settlement, upon which one of the following have
17 occurred: (i) if no objection is filed to the settlement and no objector appears at the
18 hearing on final approval, the date of the Court's entry of the order granting final
19 approval, (ii) if an objection is filed to the settlement, or an objector appears at the
20 hearing on final approval, then the later of the following: (a) the expiration of all
21 potential appeal periods without a filing of a notice of appeal of the final approval
22 order or judgment; (b) final affirmance of the final approval order and judgment by
23 an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all
24 such appeals (including any petition for review, rehearing, certiorari, etc.) such that
25 the final approval order and judgment is no longer subject to further judicial review.
- 26 N. "Funding Date" shall mean thirty (30) days after the Effective Date and is the date
27 Defendants transfer the Gross Settlement Sum into the QSF in accord with the terms
28 of this Agreement.

- 1 O. "Gross Settlement Sum" means Two Hundred Sixty Thousand Dollars (\$260,000.00)
2 that Defendants must pay into the QSF in connection with this Settlement, inclusive
3 of the sum of the Individual Settlement Payments, the Class Representative Service
4 Award, the Class Counsel Award, PAGA Settlement and the Settlement
5 Administration Costs and *exclusive* of the employer's share of payroll tax, if any,
6 triggered by any payment under this Settlement.
- 7 P. "Individual Settlement Payment" means the amount payable from the Net Settlement
8 Amount to each Settlement Class Member and excludes any amounts distributed to
9 Aggrieved Employees pursuant to PAGA.
- 10 Q. "Net Settlement Amount" or "NSA" means the Gross Settlement Sum, less Class
11 Counsel Award, Class Representative Service Award, PAGA Settlement, and
12 Settlement Administration Costs.
- 13 R. "Notice Packet" means the Class Notice to be provided to the Class Members by the
14 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other
15 than formatting changes to facilitate printing by the Settlement Administrator).
- 16 S. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
17 Labor Code §§ 2698 *et seq.*
- 18 T. "PAGA Workweeks", for purposes of calculating the distribution of the Aggrieved
19 Employee Payment, as defined herein, Section III.L.10, means the number of weeks
20 of employment during the PAGA Period that each Aggrieved Employee worked in
21 California for Defendants.
- 22 U. "PAGA Payment Ratio" means the respective PAGA Workweeks for each Aggrieved
23 Employee divided by the sum total of the PAGA Workweeks for all Aggrieved
24 Employees.
- 25 V. "PAGA Period" means the period of July 26, 2019 to December 3, 2021 (the "PAGA
26 Period").
- 27 W. "PAGA Settlement" shall mean an amount up to Ten Thousand Dollars (\$10,000), to
28 be allocated from the Gross Settlement Sum.

- 1 X. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either
2 Plaintiff or Defendants, individually.
- 3 Y. "Payment Ratio" means the respective Workweeks for each Class Member divided
4 by the sum total of the Workweeks for all Class Members.
- 5 Z. "Plaintiff" shall mean GABRIELLE BOYD.
- 6 AA. "QSF" means the Qualified Settlement Fund established, designated, and maintained
7 by the Settlement Administrator to fund the Gross Settlement Sum.
- 8 BB. "Released Class Claims" means any and all claims, debts, liabilities, demands,
9 obligations, guarantees, costs, expenses, attorneys' fees, damages or causes of action
10 of any nature and description whatsoever, at law or in equity, whether under federal,
11 state, and/or local law, statute, ordinance, regulation, common law, or other source of
12 law, which Plaintiff asserted in the Action or could have asserted based on the facts
13 alleged in the operative complaint, against the Released Persons including, without
14 limitation, California Labor Code sections 201, 201.3, 202, 203, 204, 210, 218.5,
15 218.6, 226, 226.3, 226.7, 351, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1,
16 1197.14, 1198, 1199, California Labor Code section 2698, *et seq.*, the applicable
17 industrial welfare commission wage order(s), the California Unfair Competition Law
18 and California Business & Professions Code sections 17200, *et seq.* with respect only
19 to claims arising from violations of the California Labor Code released herein, the
20 Fair Labor Standards Act (29 U.S.C. sections 201, *et seq.*) with respect only to claims
21 arising from violations of the California Labor Code released herein, or any other
22 claims in law or equity, to the extent the claims, causes of action, damages, restitution,
23 penalties, and other relief arose out of the following causes of action for (1) Unfair
24 Competition in Violation of Cal. Bus. & Prof. Code sections 17200, *et seq.*, with
25 respect only to claims arising from violations of the California Labor Code released
26 herein (2) Failure to pay overtime in violation of Labor Code sections 510, *et seq.*, (3)
27 Failure to pay minimum wages in violation of Labor Code sections 1194, 1197, and
28 1197.1, (4) Failure to provide required meal periods in violation of Labor Code

1 sections 226.7 and 512 and the applicable IWC wage order, (5) Failure to provide
2 required rest periods in violation of Labor Code sections 226.7 and 512 and the
3 applicable IWC wage order, (6) Failure to provide accurate itemized statements in
4 violation of Labor Code section 226, (7) Failure to pay wages when due in violation
5 of Labor Code sections 201, 202, and 203, and (8) Failure to provide gratuities in
6 violation of Labor Code section 351, but expressly excluding any and all claims for
7 violations of the Private Attorney General Act, which are being separately released
8 hereinbelow. In addition to the above, the Class Representative shall agree to the
9 additional following general release of all claims, known or unknown, as follows:

10 (a) Class Representative releases Defendants and all additional Released
11 Parties from all claims, demands, rights, liabilities and causes of action of
12 every nature and description whatsoever, known or unknown, asserted or
13 that might have been asserted, whether in tort, contract, or for violations of
14 any state or federal statute, rule or regulation arising out of, relating to, or
15 in connection with any act or omission by or on the part of any of the
16 Defendants based on any transaction or occurrence that took place at any
17 time prior to the date upon which this Settlement becomes effective.

18 (b) Class Representative stipulates and agrees upon the Effective Date, Class
19 Representative shall be deemed to have, expressly waived and
20 relinquished, to the fullest extent permitted by law, the provisions, rights
21 and benefits of section 1542 of the California Civil Code, which provides:
22 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT
23 THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR
24 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
25 EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR
26 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
27 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

28 (c) Accordingly, if the facts relating in any manner to this Settlement are found

hereafter to be other than or different from the facts now believed to be true, the Class Representative's release of claims contained herein, Section I.BB.a - .b, shall be effective as to all unknown claims.

CC. "Released PAGA Claims" mean any and all claims for PAGA penalties asserted in the Action and in Plaintiff's Notice of Violations to the LWDA, dated July 26, 2020.

DD. "Released Parties" shall mean Defendants Bluestone Lane Holdings LLC and Bluestone Lane NY LLC and their respective agents, attorneys, insurers, past, present and future divisions, members, affiliates, predecessors, successors, shareholders, officers, directors, managers, employees, trustees, representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents, subsidiaries, privies, and/or any and all persons and/or corporate entities acting by, through, under or in concert with any of them.

EE. "Response Deadline" means the date forty-five (45) days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement.

FF. "Settlement" means the disposition of the Action pursuant to this Agreement.

GG. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement Administrator establishes, designates, and maintains, as a non-interest bearing QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which the amount of the Gross Settlement Sum is deposited for the purpose of resolving the claims of Settlement Class Members. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendants and any person related to Defendants.

HH. "Settlement Class Members" or "Settlement Class" means all Class Members who have not submitted a timely and valid request for exclusion as provided in this Agreement.

1 II. “Workweeks”, for purposes of calculating Individual Settlement Payments, means the
2 number of weeks of employment during the Class Period that each Class Member was
3 employed by Defendants in California.

4 **II. RECITALS**

5 A. On July 26, 2020, Plaintiff Boyd filed a Notice of Violations with the Labor and
6 Workforce Development Agency (“LWDA”) and served the same on Defendants.

7 B. On July 28, 2020, Plaintiff Boyd filed the class action lawsuit for:

8 1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;

9 2. Failure to pay overtime wages in violation of California Labor Code sections
10 510, *et seq*;

11 3. Failure to pay minimum wages in violation of California Labor Code sections
12 1194, 1197 & 1197.1;

13 4. Failure to provide required meal periods in violation of California Labor Code
14 sections 226.7 and 512 and the applicable IWC wage order;

15 5. Failure to provide required rest periods in violation of California Labor Code
16 sections 226.7 and 512 and the applicable IWC wage order;

17 6. Failure to provide accurate itemized wage statements in violation of California
18 Labor Code section 226;

19 7. Failure to pay wages when due in violation of California Labor Code sections
20 201, 202, and 203; and

21 8. Failure to provide gratuities in violation of California Labor Code section 351.

22 C. On July 2, 2021, Plaintiff Boyd filed a First Amended Complaint adding a ninth cause
23 of action for violation of the Private Attorneys General Act [Labor Code sections 2698, *et*
24 *seq.*]

25 D. The Class Representative believes she has meritorious claims based on alleged
26 violations of the California Labor Code, and the Industrial Wage Commission Orders,
27 and that class certification is appropriate because the prerequisites for class
28

1 certification can be satisfied in the Action, and this action is manageable as a PAGA
2 representative action.

3 E. Defendants deny any liability or wrongdoing of any kind associated with the claims
4 alleged in the Action, dispute any wages, damages, and penalties claimed by the Class
5 Representative are owed, and further contend that, for any purpose other than
6 settlement, the Action is not appropriate for class or representative action treatment.
7 Defendants contend, among other things, that at all times they complied with the
8 California Labor Code and the Industrial Wage Commission Orders.

9 F. The Class Representative is represented by Class Counsel. Class Counsel conducted
10 an investigation into the facts relevant to the Action, including conducting an
11 independent investigation as to the allegations, reviewing documents and information
12 exchanged through informal discovery, and reviewing documents and information
13 provided by Defendants pursuant to informal requests for information to prepare for
14 mediation. Defendants produced for the purpose of settlement negotiations certain
15 employment data concerning the Settlement Class, which Class Counsel reviewed
16 and analyzed. Based on their own independent investigation and evaluation, Class
17 Counsel are of the opinion that the Settlement with Defendants is fair, reasonable, and
18 adequate, and is in the best interest of the Settlement Class in light of all known facts
19 and circumstances, including the risks of significant delay, defenses asserted by
20 Defendants, uncertainties regarding class certification and management of PAGA,
21 and numerous potential appellate issues. Although they deny any liability, Defendants
22 are agreeing to this Settlement solely to avoid the inconveniences and cost of further
23 litigation. The Parties and their counsel have agreed to settle the claims on the terms
24 set forth in this Agreement.

25 G. On October 4, 2021, the Parties participated in mediation presided over by Steve
26 Serratore, Esq., a well-respected wage and hour class action mediator. The mediation
27 concluded without settlement, but following the mediation, the Parties, represented
28 by its respective counsel, reached a settlement with the mediator's assistance.

1 H. This Agreement replaces and supersedes any other agreements, understandings, or
2 representations between the Parties. This Agreement represents a compromise and
3 settlement of highly disputed claims. Nothing in this Agreement is intended or will
4 be construed as an admission by Defendants that the claims in the Action of Plaintiff
5 or the Class Members have merit or that Defendants bear any liability to Plaintiff or
6 the Class on those claims or any other claims, or as an admission by Plaintiff that
7 Defendants' defenses in the Action have merit.

8 I. The Parties believe that the Settlement is fair, reasonable, and adequate. The
9 Settlement was arrived at through arm's-length negotiations, taking into account all
10 relevant factors. The Parties recognize the uncertainty, risk, expense, and delay
11 attendant to continuing the Action through trial and any appeal. Accordingly, the
12 Parties desire to fully, finally, and forever settle, compromise and discharge all
13 disputes and claims arising from or relating to the Action.

14 J. The Parties agree to certification of the Class for purposes of this Settlement only. If
15 for any reason the settlement does not become effective, Defendants reserve the right
16 to contest certification of any class for any reason and reserves all available defenses
17 to the claims in the Action.

18 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

19 **III. TERMS OF AGREEMENT**

20 A. Settlement Consideration and Settlement Payments by Defendants.

- 21 1. Settlement Consideration. In full and complete settlement of the Action, and
22 in exchange for the releases set forth below, Defendants and the Released
23 Parties will pay the Gross Settlement Sum. The Parties agree that this is an
24 "all-in" non-reversionary Settlement and that no portion of the Gross
25 Settlement Sum shall revert to Defendants. Other than the Defendants' share
26 of employer payroll taxes, or as otherwise specified in the Agreement,
27 Defendants shall not be required to pay more than the Gross Settlement Sum,
28 except as provided for herein below.

- 1 2. Class Size. Between July 28, 2016 to June 30, 2021, Defendants estimated
2 that the Settlement Class was comprised of 562 individuals who collectively
3 worked approximately 14,000 workweeks (“Projected Workweeks”).
4 Defendants will provide a declaration under penalty of perjury confirming the
5 actual number of applicable Class Members and Projected Workweeks. The
6 Settlement amount will increase proportionally if the actual number of
7 Projected Workweeks worked by Class Members between July 28, 2016 to
8 June 30, 2021, is more than 10% higher than 14,000 workweeks (more than
9 15,400).
- 10 3. Settlement Payment. Defendants shall pay, via wire transfer, the Gross
11 Settlement Sum to the Settlement Administrator on the Funding Date.
- 12 4. Defendants’ Share of Payroll Taxes. Defendants’ share of employer side
13 payroll taxes is in addition to the Gross Settlement Sum and shall be paid
14 separate and on top of the Gross Settlement Sum.
- 15 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
16 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
17 release the Released Parties from the Released Class Claims for the Class Period.
- 18 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
19 consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of
20 California release the Released Parties from the PAGA Released Claims for the PAGA
21 Period.
- 22 D. Conditions Precedent: This Settlement will become final and effective only upon the
23 occurrence of all of the following events:
- 24 1. The Court enters an order granting preliminary approval of the Settlement;
- 25 2. The Court enters an order granting final approval of the Settlement (“Order
26 Granting Final Approval of Class Action Settlement”) and a Final Judgment
27 (“Final Judgment”);
- 28

1 3. If an objector appears at the final approval hearing, the time for appeal of the
2 Final Judgment, and, Order Granting Final Approval of Class Action
3 Settlement, expires; or, if an appeal is timely filed, there is a final affirmance
4 of the Judgment and Order Granting Final Approval of Class Action
5 Settlement by an appellate court as a result of any appeal(s), or, a final
6 dismissal or denial of all such appeals (including any petition for review,
7 rehearing, certiorari, etc.) such that the Judgment and Order Granting Final
8 Approval of Class Action Settlement are no longer subject to further judicial
9 review; and

10 4. Defendants fully fund the Gross Settlement Sum.

11 E. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
12 not preliminarily or finally approved by the Court, fails to become effective, or is
13 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
14 Defendants from obtaining a complete resolution of the Released Claims, or if more
15 than ten percent (10%) of the Class Members opt out of the settlement by submitting
16 valid and timely Requests for Exclusion, or if Defendants fail to fully fund the Gross
17 Settlement Sum:

18 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
19 and shall not be admissible in any judicial, administrative or arbitral
20 proceeding for any purpose or with respect to any issue, substantive or
21 procedural;

22 2. The conditional class certification (obtained for any purpose) shall be void *ab*
23 *initio* and of no force or effect, and shall not be admissible in any judicial,
24 administrative, or arbitral proceeding for any purpose or with respect to any
25 issue, substantive or procedural; and

26 3. None of the Parties to this Settlement will be deemed to have waived any
27 claims, objections, defenses, or arguments in the Action, including with
28 respect to the issue of class certification.

1 4. Defendants shall bear the sole responsibility for any cost to issue or reissue
2 any curative notice to the Settlement Class Members and all Settlement
3 Administration Costs incurred to the date of nullification and all costs for any
4 curative notice informing the Settlement Class Member of the nullification of
5 the Settlement.

6 F. Certification of the Settlement Class. The Parties stipulate to conditional class
7 certification of the Class for the Class Period for purposes of settlement only. In the
8 event that this Settlement is not approved by the Court, fails to become effective, or is
9 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
10 Defendants from obtaining a complete resolution of the Released Claims, the
11 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
12 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
13 proceeding for any purpose or with respect to any issue, substantive or procedural.

14 G. Tax Liability. The Parties make no representations as to the tax treatment or legal
15 effect of the payments called for, and Class Members and/or Aggrieved Employees are
16 not relying on any statement or representation by the Parties in this regard. Class
17 Members and/or Aggrieved Employees understand and agree that they will be
18 responsible for the payment of any taxes and penalties assessed on the Individual
19 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
20 Settlement described and will be solely responsible for any penalties or other
21 obligations resulting from their personal tax reporting of Individual Settlement
22 Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement.

23 H. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
24 the "acknowledging party" and each Party to this Agreement other than the
25 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
26 of this Agreement, and no written communication or disclosure between or among the
27 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
28 such communication or disclosure constitute or be construed or be relied upon as, tax

1 advice within the meaning of United States Treasury Department circular 230 (31 CFR
2 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
3 her or its own, independent legal and tax counsel for advice (including tax advice) in
4 connection with this Agreement, (b) has not entered into this Agreement based upon
5 the recommendation of any other Party or any attorney or advisor to any other Party,
6 and (c) is not entitled to rely upon any communication or disclosure by any attorney
7 or adviser to any other party to avoid any tax penalty that may be imposed on the
8 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
9 any limitation that protects the confidentiality of any such attorney's or adviser's tax
10 strategies (regardless of whether such limitation is legally binding) upon disclosure by
11 the acknowledging party of the tax treatment or tax structure of any transaction,
12 including any transaction contemplated by this Agreement.

13 I. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with
14 the Court a Motion for Order Granting Preliminary Approval and supporting papers,
15 which shall include this Settlement Agreement. Plaintiff will provide Defendants with
16 a draft of the Motion at least 3 business days prior to the filing of the Motion to give
17 Defendants an opportunity to propose changes or additions to the Motion. The Motion
18 for Motion for Order Granting Preliminary Approval shall also include a declaration
19 from Class Counsel that it has provided notice to the California Labor & Workforce
20 Development Agency as required under Cal. Lab. Code section 2699(l)(2).

21 J. Settlement Administrator. The Settlement Administrator shall be responsible for:
22 establishing and administering the QSF; calculating, processing and mailing payments
23 to the Class Representatives, Class Counsel, LWDA and Class Members; printing and
24 mailing the Notice Packets to the Class Members as directed by the Court; receiving
25 and reporting the objections and requests for exclusion; calculating, deducting and
26 remitting all legally required taxes from Individual Settlement Payments and
27 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
28 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA

1 Settlement; processing and mailing tax payments to the appropriate state and federal
2 taxing authorities; providing declaration(s) as necessary in support of preliminary
3 and/or final approval of this Settlement; and other tasks as the Parties mutually agree
4 or the Court orders the Settlement Administrator to perform. The Settlement
5 Administrator shall keep the Parties timely apprised of the performance of all
6 Settlement Administrator responsibilities by among other things, sending a weekly
7 status report to the Parties' counsel stating the date of the mailing, the of number of
8 Elections Not to Participate in Settlement it receives (including the numbers of valid
9 and deficient), and number of objections received.

10 K. Notice Procedure.

11 1. Class Data. No later than ten (10) business days after the Preliminary
12 Approval Date, Defendants shall provide the Settlement Administrator,
13 subject to a protective order governing confidential information entered by the
14 Court, with the Class Data for purposes of preparing and mailing Notice
15 Packets to the Class Members.

16 2. Notice Packets.

17 a) The Notice Packet shall contain the Notice of Class Action Settlement
18 in a form substantially similar to the form attached as Exhibit A. The
19 Notice of Class Action Settlement shall inform Class Members and
20 Aggrieved Employees that they need not do anything in order to
21 receive an Individual Settlement Payment and/or Aggrieved
22 Employees' individual shares of the PAGA Settlement and to keep the
23 Settlement Administrator apprised of their current mailing address, to
24 which the Individual Settlement Payments and/or Aggrieved
25 Employees' individual shares of the PAGA Settlement will be mailed
26 following the Funding Date. The Notice of Class Action Settlement
27 shall set forth the release to be given by all members of the Class who
28 do not request to be excluded from the Settlement Class and/or

1 Aggrieved Employees' in exchange for an Individual Settlement
2 Payment and/or Aggrieved Employees' individual shares of the PAGA
3 Settlement, the number of Workweeks worked by each Class Member
4 during the Class Period and PAGA Period, if any, and the estimated
5 amount of their Individual Settlement Payment if they do not request
6 to be excluded from the Settlement, and each Aggrieved Employee's
7 share of the PAGA Settlement, if any. The Settlement Administrator
8 shall use the Class Data to determine Class Members' Workweeks and
9 PAGA Workweeks. The Notice will also advise the Aggrieved
10 Employees that they will release the Released PAGA Claims and will
11 receive their share of the PAGA Settlement regardless of whether they
12 request to be excluded from the Settlement.

13 b) The Notice Packet's mailing envelope shall include the following
14 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
15 ENTITLED TO PARTICIPATE IN A CLASS ACTION
16 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
17 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
18 NOTICE."

19 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
20 Settlement Administrator will perform a search based on the National Change
21 of Address Database to update and correct any known or identifiable address
22 changes. No later than fourteen (14) calendar days after receiving the Class
23 Data from Defendants, the Settlement Administrator shall mail copies of the
24 Notice Packet to all Class Members via regular First-Class U.S. Mail. The
25 Settlement Administrator shall exercise its best judgment to determine the
26 current mailing address for each Class Member. The address identified by the
27 Settlement Administrator as the current mailing address shall be presumed to
28 be the best mailing address for each Class Member.

- 1 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
2 Administrator as non-delivered on or before the Response Deadline shall be
3 re-mailed to any forwarding address provided. If no forwarding address is
4 provided, the Settlement Administrator shall promptly attempt to determine a
5 correct address by lawful use of skip-tracing, or other search using the name,
6 address and/or Social Security number of the Class Member involved, and
7 shall then perform a re-mailing, if another mailing address is identified by the
8 Settlement Administrator. In addition, if any Notice Packets, which are
9 addressed to Class Members who are currently employed by Defendants, are
10 returned to the Settlement Administrator as non-delivered and no forwarding
11 address is provided, the Settlement Administrator shall notify Defendants.
12 Defendants will request that the currently employed Class Member provide a
13 corrected address and transmit to the Administrator any corrected address
14 provided by the Class Member. Class Members who received a re-mailed
15 Notice Packet shall have their Response Deadline extended fifteen (15) days
16 from the original Response Deadline.
- 17 5. Disputes Regarding Individual Settlement Payments. Class Members will
18 have the opportunity, should they disagree with Defendants' records regarding
19 the start and end dates of employment to provide documentation and/or an
20 explanation to show contrary dates. If there is a dispute, the Settlement
21 Administrator will consult with the Parties to determine whether an
22 adjustment is warranted. The Settlement Administrator shall determine the
23 eligibility for, and the amounts of, any Individual Settlement Payments under
24 the terms of this Agreement. The Settlement Administrator's determination
25 of the eligibility for and amount of any Individual Settlement Payment shall
26 be binding upon the Class Member and the Parties.
- 27 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
28 by the Settlement Administrator concerning the administration of the

1 Settlement will be resolved by the Court under the laws of the State of
2 California. Before any such involvement of the Court, counsel for the Parties
3 will confer in good faith to resolve the disputes without the necessity of
4 involving the Court.

- 5 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
6 Packet shall state that Class Members who wish to exclude themselves from
7 the Settlement must submit a written request for exclusion by the Response
8 Deadline. The written request for exclusion must state that the Class Member
9 wishes to exclude himself or herself from the Settlement and (1) must contain
10 the name, address, and the last four digits of the Social Security number of the
11 person requesting exclusion; (2) must be signed by the Class Member; (3)
12 must be postmarked or fax stamped by the Response Deadline and returned to
13 the Settlement Administrator at the specified address or fax telephone number;
14 and (4) contain a typewritten or handwritten notice stating in substance: "I
15 wish to opt out of the settlement of the class action lawsuit entitled *Boyd v.*
16 *Bluestone Lane Holdings, LLC, et al.*, San Francisco County Superior Court,
17 Case No. CGC-20-585787, filed July 28, 2020. I understand that by
18 requesting to be excluded from the settlement, I will receive no money from
19 the Settlement described in this Notice." The request for exclusion will not
20 be valid if it is not timely submitted, if it is not signed by the Class Member,
21 or if it does not contain the name and address and last four digits of the Social
22 Security number of the Class Member. The date of the postmark on the
23 mailing envelope or fax stamp on the request for exclusion shall be the
24 exclusive means used to determine whether the request for exclusion was
25 timely submitted. Any Class Member who requests to be excluded from the
26 Settlement Class will not be entitled to an Individual Settlement Payment and
27 will not be otherwise bound by the terms of the Settlement or have any right
28 to object, appeal, or comment thereon. However, any Class Member that

1 submits a timely request for exclusion that is also a member of the Aggrieved
2 Employees will still receive his/her pro rata share of the PAGA Settlement, as
3 specified below, and in consideration, will be bound by the Release by the
4 Aggrieved Employees as set forth herein. Settlement Class Members who fail
5 to submit a valid and timely written request for exclusion on or before the
6 Response Deadline shall be bound by all terms of the Settlement and any final
7 judgment entered in this Action if the Settlement is approved by the Court.
8 No later than fourteen (14) calendar days after the Response Deadline, the
9 Settlement Administrator shall provide counsel for the Parties with a final list
10 of the Class Members who have timely submitted written requests for
11 exclusion. At no time shall any of the Parties or their counsel seek to solicit
12 or otherwise encourage members of the Class to submit requests for exclusion
13 from the Settlement.

- 14 8. Objections. The Notice of Class Action Settlement contained in the Notice
15 Packet shall state that Class Members who wish to object to the Settlement
16 may submit to the Settlement Administrator a written statement of objection
17 (“Notice of Objection”) by the Response Deadline. The postmark date of
18 mailing shall be deemed the exclusive means for determining that a Notice of
19 Objection was served timely. The Notice of Objection must be signed by the
20 Settlement Class Member and state: (1) the case name and number; (2) the
21 name of the Settlement Class Member; (3) the address of the Settlement Class
22 Member; (4) the last four digits of the Settlement Class Member’s Social
23 Security number; (5) the basis for the objection; and (6) if the Settlement Class
24 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
25 Class Members who fail to make objections in writing in the manner specified
26 above may still make their objections orally at the Final Approval/Settlement
27 Fairness Hearing with the Court’s permission. Settlement Class Members will
28 have a right to appear at the Final Approval/Settlement Fairness Hearing to

1 have their objections heard by the Court. At no time shall any of the Parties
2 or their counsel seek to solicit or otherwise encourage Class Members to file
3 or serve written objections to the Settlement or appeal from the Order and
4 Final Judgment. Class Members who submit a written request for exclusion
5 may not object to the Settlement. Class Members may not object to the PAGA
6 Settlement.

7 L. Funding and Allocation of the Gross Settlement Sum. Defendants are required to pay
8 the Gross Settlement Sum on or before the Funding Date, plus any employer's share
9 of payroll taxes as mandated by law within the time specified herein.

10 1. Calculation of Individual Settlement Payments. Individual Settlement
11 Payments shall be paid from the Net Settlement Amount and shall be paid
12 pursuant to the formula set forth herein. Using the Class Data, the Settlement
13 Administrator shall add up the total number of Workweeks for all Class
14 Members. The respective Workweeks for each Class Member will be divided
15 by the total Workweeks for all Class Members, resulting in the Payment Ratio
16 for each Class Member. Each Class Member's Payment Ratio will then be
17 multiplied by the Net Settlement Amount to calculate each Class Member's
18 estimated Individual Settlement Payments. Each Individual Settlement
19 Payment will be reduced by any legally mandated employee tax withholdings
20 (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class
21 Members who submit valid and timely requests for exclusion will be
22 redistributed to Settlement Class Members who do not submit valid and timely
23 requests for exclusion on a pro rata basis based on their respective Payment
24 Ratios.

25 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
26 Class Data, the Settlement Administrator shall add up the total number of
27 PAGA Workweeks for all Aggrieved Employees during the PAGA Period.
28 The respective PAGA Workweeks for each Aggrieved Employee will be

1 divided by the total PAGA Workweeks for all Aggrieved Employees,
2 resulting in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
3 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
4 Aggrieved Employee Payment to calculate each Aggrieved Employee's
5 estimated share of the PAGA Settlement.

6 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
7 Settlement Payments shall be allocated as follows: 10% wages ("Wage
8 Portion"); 90% as penalties and interest ("Non-Wage Portion").

9 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
10 Employee Settlement Payments shall be allocated and treated as 100%
11 penalties and shall be reported on IRS Form 1099.

12 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
13 individual shares of the PAGA Settlement made to Settlement Class Members
14 and/or Aggrieved Employees under this Settlement Agreement, as well as any
15 other payments made pursuant to this Settlement Agreement, will not be
16 utilized to calculate any additional benefits under any benefit plans to which
17 any Class Members may be eligible, including, but not limited to profit-
18 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
19 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
20 Parties' intention that this Settlement Agreement will not affect any rights,
21 contributions, or amounts to which any Class Members may be entitled under
22 any benefit plans.

23 6. All monies received by Settlement Class Members under the Settlement which
24 are attributable to wages shall constitute income to such Settlement Class
25 Members solely in the year in which such monies actually are received by the
26 Settlement Class Members. It is the intent of the Parties that Individual
27 Settlement Payments and individual shares of the PAGA Settlement provided
28 for in this Settlement agreement are the sole payments to be made by Defendants

1 to Settlement Class Members and/or Aggrieved Employees in connection with
2 this Settlement Agreement, with the exception of Plaintiff, and that the
3 Settlement Class Members and/or Aggrieved Employees are not entitled to any
4 new or additional compensation or benefits as a result of having received the
5 Individual Settlement Payments and/or their shares of the PAGA Settlement.

6 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
7 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
8 and/or Aggrieved Employees last known mailing address no later than fifteen
9 (15) calendar days after the Funding Date.

10 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
11 Employees shall remain valid and negotiable for one hundred and eighty (180)
12 days from the date of their issuance. If a Settlement Class Member and/or
13 Aggrieved Employee does not cash his or her settlement check within 90 days,
14 the Settlement Administrator will send a letter to such persons, advising that
15 the check will expire after the 180th day, and invite that Settlement Class
16 Member and/or Aggrieved Employee to request reissuance in the event the
17 check was destroyed, lost or misplaced. In the event an Individual Settlement
18 Payment and/or Aggrieved Employee's individual share of the PAGA
19 Settlement check has not been cashed within one hundred and eighty (180)
20 days, the check will be voided and the Participating Class Member and/or
21 Aggrieved Employee will remain bound by the Settlement. The funds from
22 any such uncashed checks will then be reallocated and redistributed by the
23 Settlement Administrator to those Participating Class Members and/or
24 Aggrieved Employees who cashed their Settlement Share checks through a
25 second distribution using the same allocation as the first distribution. The
26 Parties agree that under this procedure, there is no residue as the entire Gross
27 Settlement Sum will be distributed.

- 1 9. Class Representative Service Award. In addition to the Individual Settlement
2 Payment and her individual share of the PAGA Settlement to be paid to
3 Plaintiff, Plaintiff will apply to the Court for an award of not more than
4 \$7,500, as the Class Representative Service Award. Defendants do not
5 presently intend to oppose a Class Representative Service Award of not more
6 than \$7,500 for Plaintiff. The Settlement Administrator shall pay the Class
7 Representative Service Award, either in the amount stated herein if approved
8 by the Court or some other amount as approved by the Court, to Plaintiff from
9 the Gross Settlement Sum no later than ten (10) calendar days after the
10 Funding Date. Any portion of the requested Class Representative Service
11 Awards that are not awarded to the Class Representatives shall be part of the
12 Net Settlement Amount and shall be distributed to Settlement Class Members
13 as provided in this Agreement. The Settlement Administrator shall issue an
14 IRS Form 1099 — MISC to Plaintiff for her Class Representative Service
15 Award. Plaintiff shall be solely and legally responsible to pay any and all
16 applicable taxes on her Class Representative Service Award and shall hold
17 harmless the Released Parties from any claim or liability for taxes, penalties,
18 or interest arising as a result of the Class Representative Service Awards. The
19 Class Representative Service Award shall be in addition to Plaintiff's
20 Individual Settlement Payment as a Settlement Class Member. Approval of
21 this Settlement shall not be conditioned on Court approval of the requested
22 amount of the Class Representative Service Award. If the Court reduces or
23 does not approve the requested Class Representative Service Award, Plaintiff
24 shall not have the right to revoke the Settlement, and it will remain binding.
- 25 10. Class Counsel Award. Defendants understand a motion by Class Counsel for
26 attorneys' fees not to exceed one-third of the Gross Settlement Sum currently
27 estimated to be \$86,666.67 plus costs and expenses supported by declaration
28 not to exceed Twenty-Five Thousand Dollars (\$25,000.00), from the Gross

1 Settlement Sum will be filed. Defendants do not presently intend to oppose a
2 Class Counsel Award that awards attorneys' fees not exceeding one-third of
3 the Gross Settlement Sum, or costs and expenses not exceeding \$25,000.00.
4 Any portion of the requested Class Counsel Award that is not awarded to Class
5 Counsel shall be part of the Net Settlement Amount and shall be distributed
6 to Settlement Class Members as provided in this Agreement. The Settlement
7 Administrator shall allocate and pay the Class Counsel Award to Class
8 Counsel from the Gross Settlement Sum no later than five (5) calendar days
9 after the Funding Date. Class Counsel shall be solely and legally responsible
10 to pay all applicable taxes on the payment made pursuant to this paragraph.
11 The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class
12 Counsel for the payments made pursuant to this paragraph. In the event that
13 the Court reduces or does not approve the requested Class Counsel Award,
14 Plaintiff and Class Counsel shall not have the right to revoke the Settlement,
15 or to appeal such order, and the Settlement will remain binding.

- 16 11. PAGA Settlement. Ten Thousand Dollars (\$10,000) shall be allocated from
17 the Gross Settlement Sum for settlement of claims for civil penalties under the
18 Private Attorneys General Act of 2004 ("PAGA Settlement"). The Settlement
19 Administrator shall pay seventy-five percent (75%) of the PAGA Settlement
20 (\$7,500) to the California Labor and Workforce Development Agency no later
21 than twenty-five (25) calendar days after the Funding Date (hereinafter
22 "LWDA Payment"). Twenty-five percent (25%) of the PAGA Settlement
23 (\$2,500) will be distributed to the Aggrieved Employees as described in this
24 Agreement (hereinafter "Aggrieved Employee Payment"). For purposes of
25 distributing the PAGA Settlement to the Aggrieved Employees, each
26 Aggrieved Employee shall receive their pro-rata share of the Aggrieved
27 Employee Payment using the PAGA Payment Ratio as defined above.

12. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Sum. The estimate of the Settlement Administration Costs is \$11,000. The Settlement Administrator shall be paid the Settlement Administration Costs no later than twenty-five (25) calendar days after the Funding Date.

M. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative Service Award, the Class Counsel Award, the PAGA Settlement, and the Settlement Administration Costs.

1. Declaration by Settlement Administrator. No later than fourteen (14) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval. Following the Court's entry of an Order Granting Final Approval of Class Action Settlement, and Judgment thereon, Plaintiff shall provide notice to the California Labor & Workforce Development Agency in accordance with Cal. Lab. Code section 2699(1)(3).

- 1 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
2 an opportunity for Counsel for Defendants to review the Motions for Preliminary and
3 Final Approval, including the Order Granting Final Approval of Class Action
4 Settlement, and Judgment before filing with the Court. The Parties and their counsel
5 will cooperate with each other and use their best efforts to affect the Court's approval
6 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
7 Judgment.
- 8 O. Cooperation. The Parties and their counsel will cooperate with each other and use
9 their best efforts to implement the Settlement.
- 10 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
11 except such proceedings necessary to implement and complete the Settlement, pending
12 the Final Approval/Settlement Fairness Hearing to be conducted by the Court.
- 13 Q. Amendment or Modification. This Agreement may be amended or modified only by
14 a written instrument signed by counsel for all Parties or their successors-in-interest.
- 15 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
16 Agreement among these Parties, and no oral or written representations, warranties or
17 inducements have been made to any Party concerning this Agreement or its Exhibit
18 other than the representations, warranties and covenants contained and memorialized
19 in this Agreement and its Exhibit, and except as provided in the separate independent
20 individual settlement agreement between Plaintiff and Defendants.
- 21 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
22 represent they are expressly authorized by the Parties whom they represent to negotiate
23 this Agreement and to take all appropriate Action required or permitted to be taken by
24 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
25 documents required to effectuate the terms of this Agreement. The persons signing
26 this Agreement on behalf of Defendants represent and warrant that he/she is authorized
27 to sign this Agreement on behalf of Defendants. Plaintiff represents and warrants that
28

1 she is authorized to sign this Agreement and that she has not assigned any claim, or
2 part of a claim, covered by this Settlement to a third-party.

3 T. No Public Comment: The Parties and their counsel agree that they will not issue any
4 press releases, initiate any contact with the press, respond to any press inquiry, or have
5 any communication with the press about the fact, amount or terms of the Settlement
6 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
7 of its terms for any marketing or promotional purposes. Nothing herein will restrict
8 Class Counsel from including publicly available information regarding this settlement
9 in future judicial submissions regarding Class Counsel's qualifications and experience.
10 Further, Class Counsel will not include, reference or use the Settlement Agreement for
11 any marketing or promotional purposes, either before or after the Motion for
12 Preliminary Approval is filed.

13 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
14 to the benefit of, the successors or assigns of the Parties, as previously defined.

15 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
16 shall be governed by and interpreted according to the laws of the State of California.

17 W. Counterparts. This Agreement may be executed in one or more counterparts. All
18 executed counterparts and each of them shall be deemed to be one and the same
19 instrument provided that counsel for the Parties to this Agreement shall exchange
20 among themselves copies or originals of the signed counterparts.

21 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
22 is a fair, adequate, and reasonable settlement of this Action and have arrived at this
23 Settlement after extensive arms-length negotiations, taking into account all relevant
24 factors, present and potential.

25 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
26 respect to the interpretation, implementation, and enforcement of the terms of this
27 Agreement and all orders and judgments entered in connection therewith, and the
28 Parties and their counsel submit to the jurisdiction of the Court for purposes of

1 interpreting, implementing and enforcing the settlement and all orders and judgments
2 entered in connection with this Agreement.

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

7 AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
8 intend to pursue any claims against the Released Parties, including, but not limited to,
9 any and all claims relating to or arising from Plaintiff's employment with Defendants,
10 regardless of whether Class Counsel is currently aware of any facts or legal theories
11 upon which any claims or causes of action could be brought against Released Parties,
12 including those facts or legal theories alleged in the operative complaint in this Action.
13 The Parties further acknowledge, understand, and agree that this representation is
14 essential to the Agreement and that this Agreement would not have been entered into
15 were it not for this representation.

16 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
17 certification for purposes of this settlement only.

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13 DATED: 12/28/2021

DocuSigned by:
Gabrielle Boyd
GABRIELLE BOYD
01949647C4494...

16
17 DATED:

BLUESTONE LANE HOLDING LLC

Printed Name _____

Title _____

DATED: _____

BLUESTONE LANE NY LLC

Printed Name _____

Title

1 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
2 Released Claims have merit and give rise to liability on the part of Defendants.
3 Defendants claim that the Released Claims have no merit and do not give rise to
4 liability. This Agreement is a compromise of disputed claims. Nothing contained in
5 this Agreement and no documents referred to and no action taken to carry out this
6 Agreement may be construed or used as an admission by or against the Defendants or
7 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
8 than as may be specifically set forth herein, each Party shall be responsible for and
9 shall bear its/his own attorney's fees and costs.

10
11 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

12
13 DATED: _____

GABRIELLE BOYD

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15 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

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17 DATED: 12/27/21

BLUESTONE LANE HOLDING LLC

Hari Nathan Kalyan
Printed Name

General Counsel
Title

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22 DATED: 12/27/21

BLUESTONE LANE NY LLC

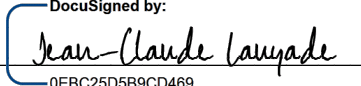
Hari Nathan Kalyan
Printed Name

General Counsel
Title

1 IT IS SO AGREED AS TO FORM BY COUNSEL:

2
3 DATED: 12/28/2021

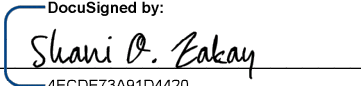
JCL LAW FIRM, A.P.C.

4 By: 
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5 Attorneys for Plaintiff and the Settlement Class
6 Members

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8 DATED: 12/28/2021

ZAKAY LAW GROUP, APLC

9 By: 
DocuSigned by:
4ECDE73A91D4420...

10 Attorneys for Plaintiff and the Settlement Class
11 Members

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13 DATED: _____

FORDHARRISON LLP

14
15 By: _____
16 DAVID L. CHENG
17 NOAH M. WOO
Attorneys for Defendants

18 WSACTIVE LLP:12748857.1

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IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: _____

JCL LAW FIRM, A.P.C.

By: _____

Attorneys for Plaintiff and the Settlement Class Members

DATED: _____

ZAKAY LAW GROUP, APLC

By: _____

Attorneys for Plaintiff and the Settlement Class Members

DATED: 12/30/2021

FORDHARRISON LLP

By:  _____

DAVID L. CHENG
NOAH M. WOO
Attorneys for Defendants

WSACTIVE LLP:12748857.1

EXHIBIT B

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
 Eduardo Garcia (State Bar #290572)
 5440 Morehouse Drive, Suite 3500
 San Diego, CA 92121
 Telephone: (619)599-8292
 Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com

FILED

San Francisco County Superior Court

APR 26 2022

CLERK OF THE COURT

BY: [Signature]
 Deputy Clerk

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
 Jackland K. Hom (State Bar #327243)
 Julieann Alvarado (State Bar #334727)
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julieann@zakaylaw.com

Attorneys for Plaintiff GABRIELLE BOYD

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

GABRIELLE BOYD, an individual, on behalf
 of herself, and on behalf of all persons similarly
 situated,

Plaintiffs,

vs.

BLUESTONE LANE HOLDINGS, LLC, a
 Delaware limited liability company;
 BLUESTONE LANE NY LLC, a New York
 limited liability company; and DOES 1 through
 50, Inclusive;

Defendants.

Case No. CGC-20-585787

**[PROPOSED] ORDER GRANTING
 PLAINTIFF'S UNOPPOSED MOTION
 FOR PRELIMINARY APPROVAL OF
 CLASS ACTION SETTLEMENT**

Hearing Date: April 26, 2022

Hearing Time: 9:30am

Department: 302

Trial Date: Not Set

Action Filed: July 28, 2020

1 This matter having come before the Superior Court of the State of California, in and for the
2 County of San Francisco, at 9:30 a.m. on April 26, 2022, with Jean-Claude Lapuyade, Esq., of the
3 JCL Law Firm, APC, and Shani O. Zakay, Esq. of the Zakay Law Group, APLC, as counsel for
4 Plaintiff GABRIELLE BOYD ("Plaintiff") and David L. Cheng and Noah M. Woo, Ford &
5 Harrison, LLP, appearing for defendant BLUESTONE LANE HOLDINGS, LLC and
6 BLUESTONE LANE NY, LLC (hereinafter collectively "Defendant"). Plaintiff's Motion for
7 Preliminary Approval of Class Action Settlement is unopposed by Defendants BLUESTONE
8 LANE HOLDINGS, LLC and BLUESTONE LANE NY, LLC. The Court, having carefully
9 considered the briefs, argument of counsel and all the matters presented to the Court, and good
10 cause appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of Class Action
11 Settlement.

12 **IT IS HEREBY ORDERED:**

13 1. The Court preliminarily approves the Stipulation of Settlement of Class Action
14 Claims and Release of Claims ("Settlement Agreement" or "Agreement") a true and correct copy
15 of which is attached hereto as **Exhibit "1"**. This is based on the Court's determination that the
16 Settlement Agreement is within the range of possible final approval, pursuant to the provisions of
17 Section 382 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

18 2. This Order incorporates by reference the definitions in the Agreement, and all
19 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

20 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
21 Defendants shall pay is Two Hundred Sixty Thousand Dollars and Zero Cents (\$260,000.00). It
22 appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate,
23 and reasonable as to the entire Class when balanced against the probable outcome of further
24 litigation relating to certification, liability, and damages issues. It further appears that investigation
25 and research have been conducted such that counsel for the Parties are able to reasonably evaluate
26 their respective positions. It further appears to the Court that settlement at this time will avoid
27 substantial additional costs by all Parties, as well as avoid the delay and risks that would be
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1 presented by the further prosecution of the litigation. It further appears that the Settlement has been
2 reached as the result of intensive, serious, and non-collusive arms-length negotiations.

3 4. The Court preliminarily finds that the Settlement appears to be within the range of
4 reasonableness of a settlement that could ultimately be given final approval by this Court. The
5 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
6 preliminarily finds that the monetary settlement awards made available to the Settlement Class are
7 fair, adequate, and reasonable when balanced against the probable outcome of further litigation
8 relating to certification, liability, and damages issues.

9 5. The Agreement specifies for a Class Counsel Award in the amount of up-to one-
10 third of the Gross Settlement Amount for attorneys' fees, currently estimated at \$86,666.67 *and* an
11 award of litigation expenses incurred not to exceed \$25,000.00, and proposed Class Representative
12 Service Award to the Class Representative, Gabrielle Boyd, in an amount not to exceed \$7,500.00.
13 While these awards appear to be within the range of reasonableness, the Court will not approve the
14 Class Counsel Award or Class Representative Service Award until the Final Approval Hearing.

15 6. The Court recognizes that Plaintiff and Defendants stipulate and agree to
16 certification of a class for settlement purposes only. This stipulation will not be deemed admissible
17 in this, or any other proceeding should this Settlement not become final. For settlement purposes
18 only, the Court conditionally certifies the following Class:

19 "All employees who are or previously were employed by Bluestone
20 Lane Holdings LLC and Bluestone Lane NY LLC in California and
21 who were classified as non-exempt employees during the Class
22 Period [April 6, 2016 to December 3, 2021]."

23 7. The Court concludes that, for settlement purposes only, the Class meets the
24 requirements for certification under section 382 of the California Code of Civil Procedure in that:
25 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
26 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
27 community of interest amongst the Class with respect to the subject matter of the litigation; (c) the
28 claims of the Class Representative are typical of the claims of the Class; (d) the Class

1 Representative will fairly and adequately protect the interests of the Class; (e) a class action is
2 superior to other available methods for the efficient adjudication of this controversy; and (f) Class
3 Counsel are qualified to act as counsel for the Class Representative in his individual capacity and
4 as the representative of the Class Members.

5 8. For settlement purposes only, the Court provisionally appoints plaintiff Gabrielle
6 Boyd as the representative of the Settlement Class.

7 9. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of the JCL Law Firm,
8 A.P.C. and Shani Zakay of the Zakay Law Group, APLC, as Class Counsel for the Settlement
9 Class.

10 10. The Court hereby approves, as to form and content, the Proposed Notice of Pendency
11 of Class and Representative Action Settlement ("Class Notice") attached as Exhibit "A" to the
12 Agreement. The Court finds that the notice appears to fully and accurately inform the Class of all
13 material elements of the proposed Settlement, including right of any Class Member to be excluded
14 from the Class by submitting a written request for exclusion, and of each Class Member's right
15 and opportunity to object to the Settlement. The Court further finds that the distribution of the
16 notice substantially in the manner and form set forth in the Agreement and this Order meets the
17 requirements of due process, is the most reasonable notice under the circumstances, and shall
18 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
19 the notices by first class mail, pursuant to the terms set forth in the Agreement.

20 11. The Court hereby appoints ILYM Group, Inc., as Settlement Administrator. Within
21 ten (10) business days of this order, Defendants shall provide, to the Settlement Administrator the
22 Class Data, including information regarding Class Members that Defendants will in good faith
23 compile from their records, including each Settlement Class Member's full name; last known
24 address; Social Security Number; dates of employment during the Class Period. Within fourteen
25 (14) calendar days after receiving the Class Data from Defendants, the Settlement Administrator
26 shall mail the Class Notice to all identified, potential members of the Class via first class U.S. Mail
27 using the most current mailing address information available.
28

12. The Court hereby preliminarily approves the proposed procedure for exclusion from the Settlement. Any Class Member may individually choose to opt out of and be excluded from the Settlement as provided in the Notice by following the instructions for requesting exclusion from the Settlement of the Released Claims that are set forth in the Notice. All requests for exclusion must be postmarked or received by the Response Deadline which is forty-five (45) calendar days after the date the Class Notice is mailed to the Class Members or, in the case of a re-mailed Notice, not more than fifteen (15) calendar days after the original Response Deadline. Any such person who chooses to opt out of and be excluded from the Settlement will not be entitled to an Individual Settlement Payment under the Settlement and will not be bound by the Settlement, or have any right to object, appeal or comment thereon. Settlement Class members who have not requested exclusion shall be bound by all determinations of the Court, the Agreement and Judgment. A request for exclusion may only opt out that particular individual, and any attempt to affect an opt-out of a group, class, or subclass of individuals is not permitted and will be deemed invalid.

13. Any Class Member who has not opted out may appear at the final approval hearing and may object or express the Member's views regarding the Settlement and may present evidence and file briefs or other papers that may be proper and relevant to the issues to be heard and determined by the Court as provided in the Notice. Class Members will have forty-five (45) days from the date the Settlement Administrator mails the Class Notice to postmark their written objections to the Settlement Administrator.

14. A final approval hearing shall be held before this Court on August 31, 2022 at 9:30 AM in Department 302 of the San Francisco County Superior Court to determine all necessary matters concerning the Settlement, including: whether the proposed settlement of the Action on the terms and conditions provided for in the Agreement is fair, adequate and reasonable and should be finally approved by the Court; whether an Order Granting Final Approval should be entered herein; whether the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the Class; and to finally approve the Class Counsel Award, Class Representative Service Award, and the Settlement Administration Costs. All papers in support of

1 the motion for final approval and the motion for Class Counsel Award and Class Representative
2 Enhancement Award shall be filed with the Court and served on all counsel no later than sixteen
3 (16) court days before the hearing.

4 15. Neither the Settlement nor any exhibit, document, or instrument delivered
5 thereunder shall be construed as a concession or admission by Defendants in any way, and shall
6 not be used as evidence of, or used against Defendants as, an admission or indication in any way,
7 including with respect to any claim of any liability, wrongdoing, fault or omission by Defendants
8 or with respect to the truth of any allegation asserted by any person. Whether or not the Settlement
9 is finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or
10 conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be
11 construed as, offered or admitted in evidence as, received as or deemed to be evidence for any
12 purpose adverse to the Defendants, including, but not limited to, evidence of a presumption,
13 concession, indication or admission by Defendants of any liability, fault, wrongdoing, omission,
14 concession or damage.

15 16. In the event the Settlement does not become effective in accordance with the terms
16 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
17 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
18 and the Parties shall revert to their respective positions as of before entering into the Agreement.
19 In such an event, the Court's orders regarding the Settlement, including this Preliminary Approval
20 Order, shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is
21 intended to alter the terms of the Settlement Agreement with respect to the effect of the Settlement
22 Agreement if it is not approved.

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25 //

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27 //
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17. The Court reserves the right to adjourn or continue the date of the final approval hearing and all dates provided for in the Agreement without further notice to Settlement Class and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

IT IS SO ORDERED.

DATED: 4/26/22

Wh

JUDGE OF THE SUPERIOR COURT

RICHARD B. ULMER

EXHIBIT C

Tesla Stone

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, March 30, 2022 4:45 PM
To: Tesla Stone
Subject: Thank you for your Proposed Settlement Submission

03/30/2022 04:44:29 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT D