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16 SAUL LOERA

17 SUPERIOR COURT OF CALIFORNIA

18 COUNTY OF ORANGE

19 SAUL LOERA, individually, and on
20 behalf of other members of the general
public similarly situated,

21 Plaintiff,

22 v.

23 HIRSCH PIPE & SUPPLY CO., INC.,
24 a California corporation; and DOES 1
through 100, inclusive,

25 Defendants.
26
27
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Lead Case No.: 30-2020-01136571-CU-OE-CXC
Consolidated Case No.: 30-2020-01139894-CU-OE-CXC

Assigned to Hon. Randall J. Sherman
Dept. CX105

**STIPULATION AND SETTLEMENT OF CLASS,
COLLECTIVE, AND PAGA CLAIMS**

Lead Case Complaint Filed: March 5, 2020

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1 Subject to final approval by the Court, which counsel and the parties agree to pursue and
2 recommend in good faith, Plaintiff Saul Loera, individually and on behalf of all others similarly
3 situated and other aggrieved employees, on the one hand, and Defendant Hirsch Pipe & Supply
4 Co., Inc. on the other (collectively “the Parties”), hereby agree to the following binding Settlement
5 of: (1) the lead class action designated Saul Loera v. Hirsch Pipe & Supply Co., Inc., et al.,
6 Orange County Superior Court Case No. 30-2020-01136571-CU-OE-CXC and (2) the
7 consolidated representative action pursuant to the California Private Attorneys General Act, Labor
8 Code sections 2698, et seq., designated Saul Loera v. Hirsch Pipe & Supply Co., Inc., et al.,
9 Orange County Superior Court Case No. 30-2020-01139894-CU-OE-CXC.

10 **I. DEFINED TERMS**

11 As used herein, the following terms are defined as:

12 1. “Action” means, collectively, (1) the lead class action designated Saul Loera v.
13 Hirsch Pipe & Supply Co., Inc., et al., Orange County Superior Court Case No. 30-2020-
14 01136571-CU-OE-CXC (the “Original Complaint”), and (2) the consolidated representative action
15 pursuant to PAGA designated Saul Loera v. Hirsch Pipe & Supply Co., Inc., et al., Orange County
16 Superior Court Case No. 30-2020-01139894-CU-OE-CXC (the “PAGA Complaint”).

17 2. “Aggrieved Employee” means all hourly-paid or non-exempt employees who
18 worked for Defendant in the State of California at any time from January 28, 2019 through the
19 date the Court grants preliminary approval of the Settlement.

20 3. “Agreement,” “Settlement” and “Stipulation” mean this Stipulation And Settlement
21 Of Class And PAGA Claims.

22 4. “Attorneys’ Fees and Cost Award” means the amount authorized by the Court to be
23 paid to Class Counsel for the services they have rendered and expenses they have incurred in
24 prosecuting the Action. Class Counsel shall request, and Defendant will not oppose, an award of
25 attorneys’ fees of up to one-third (33⅓%) of the Gross Settlement Amount, or \$500,000, as well as
26 actual costs in addition to any award of attorneys’ fees. The Attorneys’ Fees and Cost Award
27 shall be paid from the Qualified Settlement Fund. Class Counsel will be issued an IRS Form 1099
28 for the Attorneys’ Fees and Costs Award.

1 5. “Claims” means all claims which have been, will be pursuant to Paragraph II.2
2 *infra*, or could have been asserted in the Action based on the facts alleged.

3 6. “Claims Administrator” means CPT Group, Inc.; telephone: 1 (800) 542-0900;
4 facsimile: (949) 419-3446.

5 7. “Claims Administration Costs” means all costs incurred in administering the
6 Settlement.

7 8. “Class” and “Class Members” mean and refer to: All current and former hourly-
8 paid or non-exempt employees who reside in California and who worked for Defendant within the
9 State of California at any time between March 5, 2016 and the date this settlement is preliminarily
10 approved.

11 9. “Class Counsel” means Edwin Aiwazian, Brittany L. Shaw, Tara Zabehi, and
12 Travis J. Maher of Lawyers For Justice, PC, and Carolyn H. Cottrell and Ori Edelstein of
13 Schneider Wallace Cottrell Konecky LLP.

14 10. “Class List and Data Report” means a list of the names, most current mailing
15 address and telephone number, social security number, and number of Workweeks and PAGA Pay
16 Periods, during the Class Period and PAGA Period respectively. Defendant will diligently and in
17 good faith compile the Class List and Data Report from its records and provide it to the Claims
18 Administrator within twenty (20) calendar days of preliminary approval of the Settlement. The
19 Class List and Data Report will not be shared with Named Plaintiff or Class Counsel. The Class
20 List and Data Report shall be marked “Confidential – Claims Administrator’s Eyes Only.” To
21 protect Class Members’ privacy rights, the Claims Administrator must maintain the Class List and
22 Data Report and the data therein in confidence, use the Class List and Data Report and the data
23 therein only for purposes of this Settlement and for no other purpose, and restrict access to the
24 Class List and Data Report and data therein to Claims Administrator employees who need access
25 to the Class List and Data Report and the data therein to effect and perform under this Settlement.

26 11. “Class Period” means the period from March 5, 2016 through the date this
27 Settlement is preliminarily approved.

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1 12. “Class Settlement” means the settlement and resolution of all Released Class
2 Claims.

3 13. “Court” means the Superior Court for the State of California, for the County of
4 Orange, Civil Complex Center.

5 14. “Defendant” means and refers to Defendant Hirsch Pipe & Supply Co., Inc.

6 15. “Defendant’s Counsel” means Richard J. Simmons, Esq., Robert Mussig, Esq., and
7 Richard B. Azada, Esq. of Sheppard, Mullin, Richter & Hampton LLP.

8 16. “Effective Date” means the date on which the Settlement is finally approved and
9 the Superior Court’s Final Judgment (“Final Judgment” or “Judgment”) becomes final. For
10 purposes of this Stipulation, the Superior Court’s Final Judgment “becomes final” upon the later
11 of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal
12 from, or any other challenge to, the Superior Court’s Judgment; (ii) the date affirmance of an
13 appeal of the Judgment becomes final under the California Rules of Court; or (iii) the date of final
14 dismissal of any appeal from the Judgment or the final dismissal of any proceeding on review of
15 any court of appeal decision relating to the Judgment.

16 17. “Final Approval Hearing” means the hearing at which the Court considers whether
17 to approve the Settlement and to enter the Final Judgment.

18 18. “Final Approval Order” means the final formal court order signed by the Court
19 approving this Settlement on substantially the terms provided herein or as the same may be
20 modified by subsequent written agreement of the Parties as approved by the Court following the
21 Final Approval Hearing in accordance with the terms herein.

22 19. “Final Judgment” means the Court’s Final Judgment of the Action.

23 20. “General Release” means the general release by Named Plaintiff described in
24 Paragraph II.2(a) below.

25 21. “Gross Settlement Amount” means the total amount available to be paid by
26 Defendant pursuant to the Settlement and equals \$1,500,000. All Individual Class Payments that
27 will be paid to Participating Settlement Class Members; the Court-approved Claims
28 Administration Costs; the Attorneys’ Fees and Cost Award; the Service Award; the PAGA

1 Payment to the LWDA; and all Individual PAGA Payments to all Class Members who are
2 Aggrieved Employees as defined herein, shall be paid out of the Gross Settlement Amount. The
3 employer's share of payroll taxes arising from the payments made under this settlement shall be
4 paid by Defendant separate from and in addition to the Gross Settlement Amount. No part of the
5 Gross Settlement amount shall revert to Defendant.

6 22. "Individual Settlement Payment" means the amount of money from the Net
7 Settlement Amount that shall be paid to Participating Settlement Class Members less the
8 employee's portion of required federal and state withholdings. A Class Member's Individual
9 Settlement Payment will comprise of his or her Individual Class Payment (if any) and his or her
10 Individual PAGA Payment (if any), combined.

11 23. "Individual Class Payment" means the Participating Settlement Class Member's
12 *pro rata* share of the Net Settlement Amount calculated according to the number of Workweeks
13 worked during the Class Period.

14 24. "Individual PAGA Payment" means the Aggrieved Employee's *pro rata* share of
15 25% of the PAGA Payment calculated according to the number of PAGA Pay Periods worked
16 during the PAGA Period.

17 25. "Judgment" means the judgment entered by the Court based upon the Final
18 Approval Order.

19 26. "LWDA" means the California Labor and Workforce Development Agency, the
20 agency entitled, under Labor Code section 2699, subd. (i).

21 27. "Named Plaintiff" means Plaintiff Saul Loera.

22 28. "Net Settlement Amount" means the Gross Settlement Amount less the Court-
23 approved Claims Administration Costs, Court-approved Attorneys' Fees and Cost Award, Service
24 Award, and the PAGA Payment.

25 29. "Notice" means the Notice of Pendency of Class Action Settlement which
26 describes the procedure and time period to opt-out of or object to the Settlement, and the date set
27 for the Final Approval Hearing (substantially in the form annexed hereto as Exhibit A).

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1 30. “Notice Packet” means the packet that will be sent via regular mail to all Class
2 Members and shall include the Notice, including opt-out and objection procedures and the Request
3 To Opt-Out form.

4 31. “Objection” means a signed written objection to the Class Settlement by a Class
5 Member, that is timely mailed to the Claims Administrator, setting forth the grounds for the
6 objection, along with any supporting documents, the Class Member’s address, telephone number,
7 reference to the Action, and whether they intend to appear at the Final Approval Hearing. An
8 objector may also appear at the Final Approval Hearing to present an objection without the need to
9 submit a written objection with the showing of good cause.

10 32. “Opt-Out/Objection Deadline Date” means the date, no later than forty-five (45)
11 calendar days after the date the Notice is mailed, on or before which any written Objection or opt-
12 out must be signed and submitted in order to be effective.

13 33. “PAGA” means the California Private Attorneys General Act, Labor Code sections
14 2698, et seq.

15 34. “PAGA Notice” means Lawyers For Justice PC’s January 28, 2020 letter to
16 Defendant and the LWDA on behalf of Named Plaintiff, LWDA Case No. LWDA-CM-769291-
17 20, providing notice pursuant to Labor Code section 2699.3, subd.(a).

18 35. “PAGA Pay Period” means any pay period during which an Aggrieved Employee
19 worked for any Defendant for at least one day during the PAGA Period.

20 36. “PAGA Payment” means Defendant’s payment, subject to the approval of the
21 Court, of \$30,000.00, with 25%, or \$7,500.00, to Aggrieved Employees, and 75%, or \$22,500.00,
22 to the LWDA, all to be paid from the Gross Settlement Amount. This PAGA Payment is made
23 pursuant to California Labor Code §2699(i).

24 37. “PAGA Period” means the period from January 28, 2019 through the date the
25 Court grants preliminary approval of the settlement.

26 38. “PAGA Settlement” means the settlement and resolution of Released PAGA
27 Claims.

1 39. “Participating Settlement Class Member” means a Class Member who has not
2 opted-out of the Settlement.

3 40. “Parties” means Defendant and the Named Plaintiff.

4 41. “Preliminary Approval Order” means the Order issued by the Court preliminarily
5 approving the terms of the Settlement set forth in this Agreement.

6 42. “Qualified Settlement Fund” shall be the fund established by the Claims
7 Administrator pursuant to Internal Revenue Code Section 1.468B-1, and funded with the Gross
8 Settlement Amount by Defendant within twenty (20) calendar days after the Effective Date.

9 43. “Released Class Claims” means the claims being released as described in
10 Paragraph II.2(b) below.

11 44. “Released PAGA Claims” means the claims being released as described in
12 Paragraph II.2(c) below.

13 45. “Released Parties” means Defendant Hirsch Pipe & Supply Co., Inc. and its past,
14 present, and future agents, executive- and/or managerial-level employees, servants, officers,
15 directors, managing agents, members, owners (whether direct or indirect), partners, trustees,
16 representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors,
17 divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers,
18 potential and alleged joint employers, staffing agencies and companies, contractors, lenders,
19 affiliates, service providers, alter-egos, alleged alter-egos, vendors, any person and/or entity with
20 potential or alleged to have joint liability, and all of their respective past, present and future
21 executive- and/or managerial-level employees, directors, officers, members, owners, agents,
22 representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other
23 service providers, and assigns.

24 46. “Request To Opt-Out” means the Opt-Out Form that will be enclosed with the
25 Notice Packet that Class Members can use to opt-out of, or exclude themselves from, the Class
26 Settlement.

27 47. “Service Award” means the amount that the Court authorizes to be paid to the
28 Named Plaintiff over and above his Individual Settlement Payment, in recognition of his efforts in

1 assisting with the prosecution of the Action on behalf of the Class Members. Named Plaintiff will
2 request a Service Award up to \$5,000. Named Plaintiff will be issued an IRS Form 1099 in
3 connection with his Service Award.

4 48. "Weekly Report" means the written report by the Claims Administrator to be
5 submitted to Class Counsel and Defendant's Counsel on a weekly basis, as set forth in Paragraph
6 II.7(f) herein.

7 49. "Workweek" means any week during which a Class Member worked for any
8 Defendant for at least one day during the Class Period.

9 **II. STIPULATION AND AGREEMENT**

10 ***NOW, THEREFORE, IT IS HEREBY STIPULATED***, by and among the Named
11 Plaintiff on behalf of the Class Members and Aggrieved Employees on the one hand, and
12 Defendant on the other hand, and subject to the approval of the Court, that the Action is hereby
13 being compromised and settled pursuant to the terms and conditions set forth in this Agreement
14 and that upon the Effective Date, and the payment by Defendant of all monies due under the
15 Agreement, the Parties shall file a post-judgment report confirming that all funds have been
16 distributed in compliance with the Court's order with the Court, subject to the continuing
17 jurisdiction of the Court as set forth below, and subject to the following terms and conditions:

18 1. Full Investigation. Named Plaintiff and Class Counsel have investigated the factual
19 and legal bases for the causes of action asserted in the Action.

20 2. Releases of Claims. Effective on the date when Defendant fully funds the entire
21 Gross Settlement Amount, Named Plaintiff, Participating Settlement Class Members, and
22 Aggrieved Employees will release claims against all Released Parties as follows:

23 a. Named Plaintiff's Release and Waiver of Rights Under California Civil
24 Code Section 1542. Upon the Effective Date and as a condition of receiving any portion of the
25 Service Award, Named Plaintiff will agree to the additional following General Release: In
26 consideration of Defendant's promises and agreements as set forth herein, Named Plaintiff hereby
27 releases all claims related to his employment with the Released Parties including all claims alleged
28 in the Action, and all claims known and unknown, without exception, except as may be prohibited

1 by law. Specifically, Named Plaintiff waives all rights and benefits afforded by California Civil
2 Code section 1542, which provides:

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

8 This release specifically excludes claims for unemployment insurance, disability, social
9 security, and workers' compensation (with the exception of claims arising pursuant to California
10 Labor Code Sections 132(a) and 4553). Named Plaintiff's release includes all claims asserted in
11 the Action, and/or arising from or related to the facts and claims alleged in the Action, or the
12 PAGA Notice, or that could have been raised in the Action or the PAGA Notice based on the facts
13 and claims alleged. Named Plaintiff's release includes, but is not limited to, all claims for: unpaid
14 wages, including, but not limited to, failure to pay minimum wages, straight time compensation,
15 overtime compensation, double-time compensation, and interest; claims alleging failure to
16 properly calculate the regular rate of pay failure to pay wages at least twice each calendar month;
17 failure to timely pay wages; failure to timely pay final wages; failure to provide meal periods;
18 failure to authorize and permit rest periods; failure to properly calculate and/or pay meal period
19 and rest period premiums; failure to provide day of rest; failure to reimburse business expenses;
20 failure to pay for all hours worked, including claims based on alleged off-the-clock work,
21 reporting time pay, and rounded time; incorrect wage statements; failure to keep accurate records;
22 unlawful deductions and/or withholdings from wages; unfair business practices; penalties,
23 including, but not limited to, recordkeeping penalties, wage statement and payroll reporting
24 penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs.
25 Named Plaintiff's release includes all claims arising under the California Labor Code (including,
26 but not limited to, sections 201, 201.3, 202, 203, 204, 206, 210, 215, 216, 218, 218.5, 218.6, 226,
27 226.3, 226.6, 226.7, 227.3, 510, 512, 515, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2,
28 1194.3, 1197, 1197.1, 1197.2, 1198, 1198.5, 2698 *et seq.*, 2800, and 2802); all claims arising
under: the Wage Orders of the California Industrial Welfare Commission; California Business and
Professions Code sections 17200, *et seq.*; the California Civil Code; the California Code of

1 Regulations; the California Code of Civil Procedure; California common law; the Fair Labor
2 Standards Act, 29 U.S.C. §§ 201, et seq.; the Code of Federal Regulations; and federal common
3 law. Named Plaintiff's release also includes all claims for lost wages and benefits, emotional
4 distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or
5 local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way
6 of example only, (as amended) Title VII of the Civil Rights Act of 1964, the Americans with
7 Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and the California
8 Fair Employment and Housing Act (FEHA); and the law of contract and tort. This release
9 excludes the release of claims not permitted by law. Named Plaintiff's release does not extend to
10 any claims or actions to enforce this Agreement, or to any claims for vested benefits,
11 unemployment benefits, disability benefits, social security benefits, or workers' compensation
12 benefits that arose at any time. Named Plaintiff acknowledges that Named Plaintiff may discover
13 facts or law different from, or in addition to, the facts or law that Named Plaintiff now knows or
14 believe to be true but agree, nonetheless, that Named Plaintiff's release shall be and remain
15 effective in all respects, notwithstanding such different or additional facts or Named Plaintiff's
16 discovery of them.

17 b. Release by Participating Settlement Class Members. All Participating
18 Settlement Class Members, on behalf of themselves and their respective former and present
19 representatives, spouses, agents, attorneys, heirs, administrators, successors, and assigns, shall
20 fully and finally release the Released Parties of the "Released Class Claims." The "Released Class
21 Claims" means all claims that were alleged, or could have been alleged, in the Action, and/or
22 arising from or related to the facts and claims alleged in the Action, or that could have been raised
23 in the Action based on the facts and claims alleged. The Released Class Claims include all claims
24 for: unpaid wages, including, but not limited to, failure to pay minimum wages, straight time
25 compensation, overtime compensation, double-time, and interest thereon; claims alleging failure
26 to properly calculate the regular rate of pay; failure to provide meal periods; failure to authorize
27 and permit rest periods; claims alleging failure to properly calculate and pay meal period and rest
28 period premiums; failure to provide day of rest; failure to reimburse for all necessary business

1 expenses; failure to pay for all hours worked, including claims based on alleged off-the-clock
2 work, reporting time pay, and rounded time; incorrect wage statements; failure to keep accurate
3 records; unlawful deductions and/or withholdings from wages; failure to timely pay wages; failure
4 to timely pay final wages; unfair business practices related to the Released Class Claims;
5 penalties, including recordkeeping penalties, wage statement penalties, minimum-wage penalties,
6 and waiting-time penalties; and attorneys' fees and costs. The Released Class Claims expressly
7 include, without limitation, all such claims under: the California Labor Code (including, but not
8 limited to, sections 201, 201.3, 202, 203, 204, 206, 210, 215, 216, 218, 218.5, 218.6, 226, 226.3,
9 226.6, 226.7, 227.3, 510, 512, 515, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3,
10 1197, 1197.1, 1197.2, 1198, 1198.5, 2698 *et seq.*, 2800, and 2802); the Wage Orders of the
11 California Industrial Welfare Commission; California Business and Professions Code sections
12 17200, *et seq.*; the California Civil Code; the California Code of Regulations; the California Code
13 of Civil Procedure; California common law; the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et*
14 *seq.*; the Code of Federal Regulations; and federal common law. The Released Class Claims
15 excludes the release of claims not permitted by law. Upon entry of Judgment, Participating
16 Settlement Class Members may be precluded as a matter of law from filing a wage and hour action
17 under the FLSA against the Released Parties for claims and/or causes of action encompassed by
18 the Released Class Claims, which are extinguished and precluded pursuant to Rangel v. PLS
19 Check Cashers of California, Inc., 899 F.3d 1106 (2018). Except as set forth in Paragraph II.2(a)
20 of this Agreement, Participating Settlement Class Members do not release any other claims,
21 including claims for vested benefits, wrongful termination, violation of the Fair Employment and
22 Housing Act, unemployment insurance, disability, social security, or workers' compensation. The
23 Released Class Claims are limited to the Class Period.

24 c. Release by Aggrieved Employees. All Aggrieved Employees, including
25 those who timely and effectively exclude themselves from (opt-out of) the Class Settlement, shall
26 nevertheless be bound by the Released PAGA Claims and shall receive their Individual PAGA
27 Payment. All Aggrieved Employees, on behalf of themselves and their respective former and
28 present representatives, spouses, agents, attorneys, heirs, administrators, successors, and assigns,

1 shall fully and finally release the Released Parties from all claims for civil penalties under PAGA
2 that were alleged, or could have been alleged, in the Action, based on the allegations asserted in
3 Named Plaintiff's Original Complaint, Named Plaintiff's PAGA Complaint and/or in the PAGA
4 Notice. The Released PAGA Claims include, without limitation, claims under the PAGA for:
5 unpaid wages, including, but not limited to, claims based on alleged failure to pay minimum
6 wages, straight time compensation, overtime compensation, double-time compensation, and
7 interest; claims alleging failure to properly calculate the regular rate of pay; failure to provide
8 meal periods; failure to authorize and permit rest periods; failure to properly calculate and pay
9 meal period and rest period premiums; failure to provide day of rest; failure to reimburse for all
10 necessary business expenses; failure to pay for all hours worked, including claims based on
11 alleged off-the-clock work, reporting time pay, and rounded time; incorrect wage statements;
12 failure to keep accurate records; unlawful deductions and/or withholdings from wages; failure to
13 timely pay wages; and failure to timely pay final wages. The Released PAGA Claims include,
14 without limitation, claims under the PAGA for violation of the Wage Orders of the California
15 Industrial Welfare Commission and the following California Labor Code sections: 201, 202, 203,
16 204, 210, 218, 218.5, 226, 226.7, 510, 512, 551, 552, 1174, 1194, 1194.2, 1197, 1197.1, 1198,
17 2698 et seq., 2800, and 2802). Aggrieved Employees' Released PAGA Claims are limited to the
18 PAGA Period.

19 3. Tax Liability. Defendant, Defendant's Counsel, and Class Counsel make no
20 representations as to the tax treatment or legal effect of the payments called for herein, and Named
21 Plaintiff is not relying on any statement or representation by Defendant, Defendant's Counsel, or
22 Class Counsel in this regard. Named Plaintiff understands and agrees that Named Plaintiff will be
23 solely responsible for the payment of any taxes and penalties assessed on the payments described
24 herein.

25 4. Circular 230 Disclaimer. Each Party to this agreement (for purposes of this
26 paragraph, the "Acknowledging Party" and each Party to this agreement other than the
27 Acknowledging Party, an "Other Party") acknowledges and agrees that (1) no provision of this
28 Agreement, and no written communication or disclosure between or among the parties or their

1 attorneys and other advisers, is or was intended to be, nor shall any such communication or
2 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United
3 States Treasury Department Circular 230 (31 CFR part 10, as amended); (2) the Acknowledging
4 Party (a) has relied exclusively upon his or its own, independent legal and tax counsel for advice
5 (including tax advice) in connection with this agreement, (b) has not entered into this agreement
6 based upon the recommendation of any other party or any attorney or advisor to any other party,
7 and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to
8 any other party to avoid any tax penalty that may be imposed on the acknowledging party; and
9 (3) no attorney or adviser to any Other Party has imposed any limitation that protects the
10 confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such
11 limitation is legally binding) upon disclosure by the Acknowledging Party of the tax treatment or
12 tax structure of any transaction, including any transaction contemplated by this agreement.

13 5. Preliminary Approval Hearing. As part of this Settlement, the Parties agree to the
14 following procedures for obtaining preliminary Court approval of the Settlement, notifying Class
15 Members, obtaining final Court approval of the Settlement and processing the Individual
16 Settlement Payments:

17 a. Named Plaintiff shall request a hearing before the Court to request preliminary
18 approval of the Settlement and to request the entry of the Preliminary Approval Order.

19 b. Class Counsel agrees to provide Defendant's Counsel with a copy of the motion
20 for Preliminary Approval Order at least five (5) calendar days prior to the filing of such motion,
21 which will include the following: (i) a draft of the notice, and memorandum in support, of the
22 motion for Preliminary Approval Order that includes an analysis of the Settlement under Dunk v.
23 Foot Locker Retail, Inc. (1996) 48 Cal.App.4th 1794, 1801 and Kullar v. Foot Locker Retail, Inc.
24 (2008) 168 Cal.App.4th 116, 129-130 and a request for approval of the PAGA Settlement under
25 Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Preliminary Approval Order.

26 c. Named Plaintiff will request the Court to enter the Preliminary Approval Order,
27 preliminarily approving and conditionally certifying the class for settlement purposes only, the
28 proposed settlement and setting a date for a Final Approval Hearing.

1 d. In conjunction with this hearing, Named Plaintiff will submit this Agreement,
2 which sets forth the terms of this Settlement, and will include proposed forms of all notices and
3 other documents as attached hereto necessary to implement the Settlement. The Order shall
4 provide for notice of the Settlement and related matters to be sent to Class Members as specified
5 herein.

6 6. Statutory Notice to the LWDA. Named Plaintiff will provide the necessary
7 statutory notice of this Settlement to the LWDA at the same time he moves for preliminary
8 approval of the Settlement, in accordance with Cal. Lab. Code section 2699(I)(2).

9 7. Settlement Administration/Management. The Individual Settlement Payments shall
10 be managed and administered as follows:

11 a. Defendant shall have no obligation to segregate the funds to be used for the
12 Gross Settlement Amount from other assets. Defendant will retain exclusive authority over, and
13 responsibility for, the funds comprising the Gross Settlement Amount until such time as payment
14 is due.

15 b. CPT Group, Inc. shall be retained to serve as Claims Administrator. The
16 Parties represent that they do not have any financial interest in the Claims Administrator or
17 otherwise have a relationship with the Claims Administrator that could create a conflict of interest.

18 c. Defendant shall provide the Claims Administrator with the Class List and Data
19 Report within twenty (20) calendar days of Preliminary Approval of the Settlement. The Class
20 List and Data Report will not be shared with Named Plaintiff or Class Counsel. The Class List
21 and Data Report shall be marked "Confidential – Claims Administrator's Eyes Only." To protect
22 Class Members' privacy rights, the Claims Administrator must maintain the Class List and Data
23 Report and the data therein in confidence, use the Class List and Data Report and the data therein
24 only for purposes of this Settlement and for no other purpose, and restrict access to the Class List
25 and Data Report and data therein to Claims Administrator employees who need access to the Class
26 List and Data Report and the data therein to effect and perform under this Settlement.

27 d. Within ten (10) calendar days of receipt of the Class List and Data Report, the
28 Claims Administrator shall mail the Notice Packet to each Class Member in accordance with

1 Paragraph II.11 *infra*. The Claims Administrator will, among other items, identify in the Notice
2 Packet each individual Class Member's estimated Individual Settlement Payment.

3 e. All Class Members who do not opt-out of the Settlement shall be Participating
4 Settlement Class Members. As set forth herein, any Class Member who is also an Aggrieved
5 Employee and who validly opts out from the Class Settlement will still receive an Individual
6 PAGA Payment, and will be deemed to have released claims against the Released Parties for civil
7 penalties pursuant to PAGA based on the Released PAGA Claims.

8 f. The Claims Administrator must, on a weekly basis, provide written reports to
9 Class Counsel and Defendant's Counsel that, among other things, tally the number of: Notice
10 Packets mailed or re-mailed, Notice Packets returned undelivered, Requests To Opt-Out (whether
11 valid or invalid) received, Objections received, Workweek and PAGA Pay Period disputes
12 received and/or resolved, and checks mailed for Individual Settlement Payments ("Weekly
13 Report"). The Weekly Reports must provide the Claims Administrator's assessment of the
14 validity of Requests To Opt-Out and attach copies of all Requests To Opt-Out and Objections
15 received. The Weekly Reports shall also report all communications of Notices, including the
16 number of transmissions that are returned undeliverable, number of calls or responses, number of
17 unique visitors to the settlement website, and all efforts made to successfully communicate the
18 Notice.

19 g. In addition to the Weekly Report, fifteen (15) calendar days prior to the Final
20 Approval Hearing, the Claims Administrator shall provide Defendant's Counsel and Class
21 Counsel a final report showing: (i) the names and number of Class Members who have objected
22 to the Settlement; (ii) the names and number of Class Members opting out of the Settlement; and
23 (iii) the amount owed to each Participating Settlement Class Member.

24 h. The Parties agree to cooperate in the Settlement administration process and to
25 make all reasonable efforts to control and minimize the costs and expenses incurred in
26 administration of the Settlement.

27 i. The Claims Administrator shall be responsible for: printing and mailing the
28 Notices to Class Members as directed by the Court; receiving and reporting the opt-outs and

1 Objections submitted by Class Members; mailing Individual Settlement Payments to Participating
2 Settlement Class Members and Aggrieved Employees; posting notice of Final Judgment on the
3 Claims Administrator's website; and other tasks as the Parties mutually agree or the Court orders
4 the Claims Administrator to perform. The Claims Administrator shall keep Defendant's Counsel
5 and Class Counsel timely apprised of the performance of all Claims Administrator responsibilities.

6 j. The Claims Administrator, on Defendant's behalf, shall have the authority and
7 obligation to make payments, credits and disbursements, including payments and credits in the
8 manner set forth herein, to Participating Settlement Class Members and Aggrieved Employees
9 calculated in accordance with the methodologies set out in this Agreement and orders of the Court.

10 k. Any tax return filing required by this Agreement shall be made by the Claims
11 Administrator. Any expenses incurred in connection with such filing shall be a cost of
12 administration of the Settlement.

13 l. No person shall have any claim against Defendant or Defendant's Counsel, the
14 Named Plaintiff, Class Members, the Class, Class Counsel or the Claims Administrator based on
15 distributions and payments made in accordance with this Agreement.

16 8. Monetary Procedures.

17 a. *Administration of the Settlement.* Within twenty (20) calendar days after the
18 Effective Date, Defendant shall transfer the Gross Settlement Amount as required by this
19 Agreement, into the Qualified Settlement Fund created by the Claims Administrator, either
20 directly or by sending the funds to the Claims Administrator to be deposited and distributed. All
21 payments that Defendant is required to make pursuant to the Settlement Agreement, with the
22 exception of the employer's portion of all payroll taxes, shall be made from this Qualified
23 Settlement Fund. All of Defendant's obligations under this Settlement are deemed to be satisfied
24 upon Defendant's timely deposit of the entire Gross Settlement Amount and the Claims
25 Administrator's acknowledgement of receipt of said funds, and thereafter Defendant shall have no
26 further obligations to the Class including, without limitation, any further obligations to make any
27 other payments of any kind to, or on behalf of, the Class (except for the payment of the employer's
28 share of payroll taxes). The Claims Administrator will use the Gross Settlement Amount to fund

1 payment of the Individual Settlement Payments (comprising of any Individual Class Payments to
2 Participating Settlement Class Members and any Individual PAGA Payments to Aggrieved
3 Employees), the Attorneys' Fees and Cost Award, Court-approved Claims Administration Costs,
4 the LWDA's portion of the PAGA Payment, the Service Award to Named Plaintiff, and employee
5 tax withholdings applicable to the Net Settlement Amount allocated to wages. Within ten (10)
6 calendar days after Defendant fully funds the Settlement, the Claims Administrator will mail the
7 Individual Settlement Payments (comprising of any Individual Class Payments and any Individual
8 PAGA Payments, combined into a single check), Court-approved Attorneys' Fees and Cost
9 Award, Claims Administration Costs, Service Award, and the LWDA's portion of the PAGA
10 Payment.

11 b. *Payment of Attorneys' Fees and Costs.* Defendant agrees not to oppose or
12 impede any application or motion by Class Counsel for attorneys' fees not in excess of 33⅓
13 percent, or \$500,000, of the Gross Settlement Amount, as well as an additional amount for actual
14 litigation costs. The Attorneys' Fees and Costs Award approved by the Court shall encompass all
15 work performed, costs, and expenses related to the investigation, prosecution, and Settlement of
16 the Action incurred through the Effective Date. Any amount awarded for attorneys' fees to Class
17 Counsel less than \$500,000 will result in the non-awarded amounts to be part of the Net
18 Settlement Amount, available for distribution to Participating Settlement Class Members. So long
19 as there are no objections, Class Counsel shall be paid any Court-approved fees and costs no later
20 than ten (10) calendar days after Defendant delivers the Gross Settlement Amount to the Claims
21 Administrator for deposit into the Qualified Settlement Fund. Class Counsel shall be solely and
22 legally responsible to pay all applicable taxes on the payment made pursuant to this Paragraph
23 II.8.b. A Form 1099-MISC, Box 10 shall be provided to Class Counsel for the payment made
24 pursuant to this Paragraph. Any award of attorneys' fees and costs shall include and satisfy all
25 past and future attorneys' fees and costs incurred to prosecute, settle, and participate in
26 administering the Settlement, including obtaining the Final Approval Order. Defendant shall have
27 no obligation to Class Counsel for any attorneys' fees and costs incurred in prosecuting this
28 Action other than as stated herein, provided that Defendant fully complies with the terms of this

1 Settlement, including but not limited to timely payment of the Gross Settlement Amount.

2 c. *Payment of Claims Administration Costs.* The Claims Administrator shall be
3 paid for the costs of administration of the Settlement from the Gross Settlement Amount. The
4 estimate of such costs of administration for the disbursement of the Gross Settlement Amount is
5 \$12,500.00. Any amount awarded for costs of administration to the Claims Administrator less
6 than \$12,500.00 will result in the non-awarded amount being made part of the Net Settlement
7 Amount, available for distribution to Participating Settlement Class Members. This estimate
8 includes the required tax reporting on the settlement amounts/payments, including the issuing of
9 W-2 and 1099 Forms (if any), as well as calculation of employee withholding taxes and the
10 employer payroll taxes for Defendant to be remitted to the tax authorities. Within ten (10) court
11 days prior to the Final Approval Hearing, the Claims Administrator shall provide the Court and all
12 counsel for the Parties with a statement detailing the costs of administration of the Settlement. A
13 Form 1099-NEC, Box 1 shall be issued to the Claims Administrator.

14 d. *Payment of Service Award to Named Plaintiff.* Subject to Court approval,
15 Named Plaintiff shall request for his time and effort in bringing and prosecuting this matter to be
16 paid up to a total of \$5,000, or such other distribution or lower amount as the Court may order.
17 This time-and-effort payment shall be paid to the Named Plaintiff by the Claims Administrator no
18 later than ten (10) calendar days after Defendant delivers the Gross Settlement Amount to the
19 Claims Administrator for deposit into the Qualified Settlement Fund. The service payment shall
20 be made solely from the Qualified Settlement Fund. The Parties agree that a decision by the Court
21 to award Named Plaintiff an amount less than the amount stated above shall not be a basis for
22 Class Counsel to void this Agreement. The Claims Administrator shall issue a Form 1099 –
23 MISC, Box 3 for the incentive payment. Any amount awarded for a service payment to the
24 Named Plaintiff less than \$5,000 will result in the non-awarded funds being part of the Net
25 Settlement Amount available for distribution to the Class Members. The Named Plaintiff shall be
26 solely and legally responsible to pay any and all applicable taxes on this payment and shall hold
27 Defendant harmless from any claim or liability for taxes, penalties or interest arising as a result of
28 the payment. This time-and-effort and general release payment shall be in addition to the Named

1 Plaintiff's share of the Net Settlement Amount as a Participating Settlement Class Member.

2 e. *Payment of the PAGA Payment to the LWDA and to the Aggrieved Employees.*

3 In consideration of claims made pursuant to PAGA, Class Counsel will request that the
4 Court approve allocation of \$30,000 of the Gross Settlement Amount to these claims (the "PAGA
5 Payment"). Seventy-five percent (75%) of the PAGA Payment (\$22,500) will be paid to the
6 California Labor and Workforce Development Agency and twenty-five percent (25%) of the
7 PAGA Payment (\$7,500) will be paid on a pro rata basis to all Class Members who are Aggrieved
8 Employees based on the individual PAGA Pay Periods worked during the PAGA Period by each
9 Class Member who is an Aggrieved Employee, regardless of whether or not they opt-out of the
10 Class Settlement. Defendant will not oppose this request. The Claims Administrator will
11 calculate each Aggrieved Employee's Individual PAGA Payment amount by (i) dividing the
12 Aggrieved Employees' share of the PAGA Payment (\$7,500) by the total number of PAGA Pay
13 Periods worked by all Aggrieved Employees during the PAGA Period and (ii) multiplying the
14 result by each Aggrieved Employee's PAGA Pay Periods. Each Aggrieved Employee's estimated
15 Individual PAGA Payment will be included in his or her Notice. The PAGA Payment will be paid
16 out of the Gross Settlement Amount. The Court's adjustment, if any, of the amount allocated to
17 the PAGA Payment will not invalidate this Settlement. The PAGA Payment shall be attributed to
18 penalties. The Claims Administrator will report the Individual PAGA Payments on Form 1099.

19 f. *Payment of Individual Class Payments to Participating Settlement Class*
20 *Members.*

21 The Parties agree that the Net Settlement Amount shall be used to fund Individual Class
22 Payments. The Parties agree that the Net Settlement Amount shall be divided among all
23 Participating Settlement Class Members in proportion to the number of individual Workweeks for
24 each Class Member. To calculate the minimum Individual Class Payment amounts each
25 Participating Settlement Class Member can receive based on their individual Workweeks, (i) the
26 Net Settlement Amount will be divided by the total number of Workweeks worked by all
27 Participating Settlement Class Members during the Class Period and (ii) multiplying the result by
28 each Participating Settlement Class Member's Workweeks. Each Class Member's estimated

1 Individual Class Payment will be included in his or her Notice. After final approval by the Court,
2 the Net Settlement Amount will be distributed to Participating Settlement Class Members on a pro
3 rata basis based on the individual Workweeks worked during the Class Period by each
4 Participating Settlement Class Member.

5 Each Individual Class Payment will represent wages, reimbursements, interest, and
6 penalties allocated using the following formula: two-thirds (2/3) shall be attributed to
7 reimbursements, penalties and interest, to be reported on a 1099 Form; and one-third (1/3) shall be
8 attributed to wages. The amounts paid as wages shall be subject to all tax withholdings
9 customarily made from an employee's wages and all other authorized and required withholdings
10 and shall be reported by W-2 forms. The employer-side taxes (including employer's portion of
11 FICA, FUTA, SUTA, and all other applicable payroll taxes) will be paid by Defendant separate
12 from and in addition to the Gross Settlement Amount. The amounts paid as penalties,
13 reimbursements, and interest shall be subject to all authorized and required withholdings other
14 than the tax withholdings customarily made from employees' wages and shall be reported by IRS
15 1099 forms.

16 h. *Calculation and Distribution of Individual Settlement Payment Checks.*

17 No later than twenty (20) calendar days after the date of the Preliminary Approval Order,
18 Defendant will provide the Claims Administrator with a list of the Workweeks and PAGA Pay
19 Periods for each Class Member, as part of the Class List and Data Report. Based on that
20 information, the Claims Administrator shall calculate: (a) the Net Settlement Amount, (b) the
21 Individual Settlement Payment for each Participating Settlement Class Member and Aggrieved
22 Employee based on the formula specified above, (c) the amount of the Individual Settlement
23 Payments to be allocated to wages, reimbursements, interest and penalties based on the formula
24 specified above, (d) the employer share of the payroll taxes applicable to the Net Settlement
25 Amount allocated to wages, and (e) the employee tax withholding amount based on the allocation
26 of each Individual Settlement Payment to wages.

27 No later than ten (10) business days after receiving the entire Gross Settlement Amount
28 from Defendant, the Claims Administrator shall prepare and mail the checks for the Individual

1 Settlement Payments (comprising of the Individual Class Payments and the Individual PAGA
2 Payments, combined into a single check for each Class Member) to Participating Settlement Class
3 Members and Aggrieved Employees. Defendant shall not bear any liability for lost or stolen
4 checks, forged signatures on checks, or unauthorized negotiation of checks. Individual Settlement
5 Payments paid from the Net Settlement Amount allocated to wages will be reduced by applicable
6 employer and employee tax withholdings, and the Claims Administrator will issue a Form W-2 for
7 the wage portion of the Individual Settlement Payments. The Claims Administrator will issue a
8 Form 1099 to the extent required by law for the interest and penalty portions of the Individual
9 Settlement Payments. Participating Settlement Class Members and Aggrieved Employees shall
10 have 180 calendar days from the date their Individual Settlement Payment checks are dated to cash
11 their Individual Settlement Payment checks. Any amounts from checks that remain unclaimed
12 and/or uncashed after 180 calendar days of issuance will be disbursed to the California State
13 Controller's Office's Unclaimed Property Division in the Participating Settlement Class Member's
14 or Aggrieved Employee's name.

15 If a check is returned to the Claims Administrator as undeliverable, the Claims
16 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
17 or a mass search on LexisNexis databases or other databases based on set criteria and, if another
18 address is identified, shall mail the check to the newly identified address. If the Claims
19 Administrator is unable to obtain a valid mailing address through this process, the Claims
20 Administrator will also transfer the amount represented by the check to the California State
21 Controller's Office's Unclaimed Property Division in the Participating Settlement Class Member's
22 or Aggrieved Employee's name.

23 9. No Effect on Employee Benefits. The Service Award and Settlement amounts paid
24 to Named Plaintiff, Participating Settlement Class Members, and Aggrieved Employees shall be
25 deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or
26 calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of
27 the Named Plaintiff, Participating Settlement Class Members, or Aggrieved Employees. The
28 Parties agree that any Service Award and settlement payments paid to Named Plaintiff,

1 Participating Settlement Class Members, and Aggrieved Employees under the terms of this
2 Settlement do not represent any modification to Named Plaintiff's, Participating Settlement Class
3 Members', or Aggrieved Employees' previously credited hours of service or other eligibility
4 criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by
5 Defendant or any of the Released Parties. Further, any Service Award or Settlement payments
6 hereunder shall not be considered "compensation" in any year for purposes of determining
7 eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare
8 benefit plan sponsored by Defendant or any of the Released Parties.

9 10. No Effect on Regular Rate or Overtime Compensation. Class Members will
10 receive payment under the Settlement as determined by the Claims Administrator in accordance
11 with this Agreement. The Parties agree that this payment is not viewed as additional
12 compensation for purposes of calculating a "regular rate" of pay under California or federal law
13 for the period during which it is received, and no additional overtime compensation is required as
14 a result of such payment.

15 11. Notice to Class Members. Notice of the Settlement shall be provided to all Class
16 Members using the following procedures:

17 a. Notice by First-Class Mail. Within ten (10) calendar days after receipt of the
18 Class List and Data Report, the Claims Administrator shall mail the Notice Packet to the Class
19 Members via first-class regular U.S. mail. Prior to mailing, the Claims Administrator will perform
20 a search based on the National Change of Address Database information to update and correct for
21 any known or identifiable address changes. If a new address is obtained by way of a returned
22 Notice Packet, then the Claims Administrator shall promptly forward the original Notice Packet to
23 the updated address via first-class regular U.S. mail indicating on the original Notice Packet the
24 date of such re-mailing.

25 b. Opt-Out/Objection Deadline Date: Class Members will have forty-five (45)
26 calendar days from the mailing of the Notice Packet to opt-out of or submit Objections to the
27 Class Settlement.
28

1 c. Procedure for Undeliverable Notices. Any Notices returned to the Claims
2 Administrator as non-delivered on or before the Opt-Out/Objection Deadline Date shall be sent to
3 the forwarding address affixed thereto within five (5) business days. If no forwarding address is
4 provided, then the Claims Administrator shall promptly attempt to determine a correct address
5 using a single skip-trace, computer or other search using the name, address and/or social security
6 number of the individual involved, and shall then perform a single re-mailing within five (5)
7 business days. In the event the procedures in this paragraph are followed and the intended
8 recipient of a Notice still does not receive the Notice, the intended recipient shall be considered a
9 Participating Settlement Class Member and shall be bound by all terms of the Settlement and any
10 Final Judgment entered by the Court if the Settlement is approved by the Court, and his or her
11 Individual Settlement Payment will be disbursed to the California State Controller's Office's
12 Unclaimed Property Division in the Participating Settlement Class Member's or Aggrieved
13 Employee's name.

14 d. Participating Settlement Class Members shall be bound by all terms of the
15 Settlement and any Final Judgment entered by the Court if the Settlement is approved by the
16 Court. Any Class Member who validly opts out from the Class Settlement and who is also an
17 Aggrieved Employee will still receive an Individual PAGA Payment, and will be deemed to have
18 released claims against the Released Parties for civil penalties pursuant to PAGA based on the
19 Released PAGA Claims.

20 e. As mentioned herein, and in addition to the Weekly Reports, at least fifteen (15)
21 calendar days prior to the Final Approval Hearing, the Claims Administrator shall provide
22 Defendant's Counsel and Class Counsel a final report showing: (i) the names and number of
23 Class Members objecting to the Settlement; (ii) the names and number of Class Members opting
24 out of the Settlement; and (iii) the amount owed to each Participating Settlement Class Member.

1 12. Procedure for Objecting to or Opting Out of the Class Action Settlement. The
2 Class Members shall make objections to the Settlement and/or opt-out of the Settlement using the
3 following procedures:

4 a. Procedure for Objecting. Only Participating Settlement Class Members may
5 object to the Class Settlement and/or this Agreement. Class Members may not object to the
6 PAGA Settlement. For any Class Member to object to this Settlement, or any term of it, the
7 person making the objection must not opt-out out the Settlement. They should send any signed
8 written Objection using the instructions provided in the Notice Packet to the Claims
9 Administrator, postmarked no later than the Opt-Out/Objection Deadline Date, along with all
10 supporting papers, or if they did not submit a Request To Opt-Out, they may also appear at the
11 Final Approval Hearing to present an objection without the need to submit a written Objection
12 upon a showing of good cause. The date of the initial mailing of the Notice Packet, and the date
13 the signed Objection was postmarked, shall be conclusively determined according to the records of
14 the Claims Administrator. Each objection must be on behalf of an individual Class Member, who
15 must individually make the objection. Joint or mass objections are prohibited. In addition to the
16 Weekly Report, the Claims Administrator shall send any Objections it receives to Defendant's
17 Counsel and Class Counsel immediately, but no more than three (3) business days from the Class
18 Administrator's receipt of such Objections. The Court retains final authority with respect to the
19 consideration and admissibility of any Class Member objections.

20 b. Procedure for Opting Out. Class Members, with the exception of the Named
21 Plaintiff, may opt-out of the Class Settlement. Class Members may not opt-out of the PAGA
22 Settlement. In order for any Class Member to validly opt-out/exclude himself or herself from the
23 Class Settlement, the Request To Opt-Out must be completed and signed by the Class Member or
24 his or her authorized representative, and must be mailed to the Claims Administrator, postmarked
25 no later than the Opt-Out/Objection Deadline Date. Each Request To Opt-Out must be on behalf
26 of an individual Class Member, who must individually make the Request To Opt-Out. Joint or
27 mass Requests To Opt-Out are prohibited. The Notice Packet shall contain instructions that the
28 Request To Opt-Out must be mailed, the date by which it must be mailed, and state the name and

1 address of the Claims Administrator. The date of the initial mailing of the Notice Packet, and the
2 date the signed Request To Opt-Out was postmarked, shall be conclusively determined according
3 to the records of the Claims Administrator. In addition to the Weekly Report, the Claims
4 Administrator shall send any Requests To Opt-Out it receives to Defendant's Counsel and Class
5 Counsel immediately, but no more than three (3) business days from the Class Administrator's
6 receipt of such Requests To Opt-Out. Any Class Member who timely and validly opts-out of the
7 Class Settlement will not be entitled to any Individual Class Payment arising from the Released
8 Class Claims, will not be bound by the terms and conditions of the Class Settlement, and will not
9 have any right to object, appeal, or comment thereon. However, the Settlement includes the
10 settlement of claims for civil penalties under PAGA. Class Members and Aggrieved Employees
11 may not opt-out of or request exclusion from the PAGA Settlement. Thus, if the Court approves
12 the Settlement, then even if a Class Member opts-out of the Settlement, and he or she is an
13 Aggrieved Employee as defined herein, the Class Member will still receive an Individual PAGA
14 Payment pursuant to the terms in Paragraphs II.8(e) and II.13(a), and will be deemed to have
15 released the Released PAGA Claims. A Request To Opt-Out will preserve the Class Member's
16 right to individually pursue only the remaining class claims. Any Class Member who fails to
17 timely submit a Request To Opt-Out shall automatically be deemed a Participating Settlement
18 Class Member whose rights and claims with respect to the issues raised in the Action, are
19 determined by the Court's Final Approval Order, and by the other rulings in the Action.

20 c. Procedure for Disputes Regarding Workweeks. To the extent that any Class
21 Member disputes the number of workweeks that the Class Member worked, as shown in his or her
22 Notice Packet, such Class Members may produce evidence to the Claims Administrator
23 establishing the dates they contend to have worked for Defendant. The deadline for Class
24 Members to submit disputes pursuant to this paragraph is the Opt-Out/Objection Deadline Date,
25 postmarked no later than the Opt-Out/Objection Deadline Date. Joint or mass disputes are
26 prohibited. The Notice Packet shall contain instructions that the disputes must be mailed, the date
27 by which it must be mailed, and state the name and address of the Claims Administrator. The date
28 of the initial mailing of the Notice Packet, and the date the dispute was postmarked, shall be

1 conclusively determined according to the records of the Claims Administrator. Unless the Class
2 Member presents convincing evidence proving he or she worked more workweeks than shown by
3 Defendant's records, his or her Individual Settlement Payment will be determined based on
4 Defendant's records. The Claims Administrator shall notify counsel of the Parties of any disputes
5 it receives. Defendant shall review its records and provide further information to the Claims
6 Administrator, as necessary. The Claims Administrator shall provide a recommendation to counsel
7 for the Parties. Counsel for the Parties shall then meet and confer in an effort to resolve the
8 dispute. If the dispute cannot be resolved by the Parties, it shall be presented to the Court for a
9 resolution. The Claims Administrator will notify the dispute Class Member of the decision.

10 d. No Solicitation of Settlement Objections or Opt-Outs. The Parties agree to use
11 their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or
12 their counsel seek to solicit or otherwise encourage or influence Class Members to submit written
13 Objections to the Settlement, to opt-out of the Settlement or to appeal from the Order and Final
14 Judgment.

15 e. No Opt-Outs Or Subsequent Lawsuits By Any Parties Represented by Class
16 Counsel. Class Counsel represent and warrant that as of the date of signing this Agreement, none
17 of them represents any individual with regard to wage-hour claims against Defendant, excepting
18 Named Plaintiff. Class Counsel further represent and warrant that as of the date of the signing of
19 this Agreement, none of them are currently aware of any claims of Defendant's former or present
20 employees that are not covered by this Settlement or are otherwise part of any other lawsuit or
21 settlement.

22 f. No Liens or Litigation Funding. Named Plaintiff and Class Counsel represent
23 and warrant that they have not used litigation funding for this case, and that there are no liens or
24 encumbrances on any amounts payable under this Settlement for attorneys' fees and costs, or for
25 any amounts owing under the Settlement to Named Plaintiff.

26 13. Procedure for Payment of Individual Settlement Payments. The procedure for
27 payment to Class Members of Individual Settlement Payments is as follows:
28

1 a. All Participating Settlement Class Members will receive an Individual Class
2 Payment from Defendant, distributed through the Claims Administrator. Any Class Member who
3 validly opts-out from the Class Settlement but who is also an Aggrieved Employee will still
4 receive an Individual PAGA Payment, and will be deemed to have released claims against the
5 Released Parties for civil penalties pursuant to PAGA based on the Released PAGA Claims. The
6 Claims Administrator shall send the Individual Settlement Payments as a single check combining
7 the Individual Class Payment and the Individual PAGA Payment, with employee paid taxes
8 withheld and paid from the Gross Settlement Amount.

9 b. Individual Settlement Payments shall be paid pursuant to the Settlement
10 formulae set forth herein, and shall be mailed within ten (10) calendar days after Defendant
11 delivers the Gross Settlement Amount to the Claims Administrator for deposit into the Qualified
12 Settlement Fund.

13 c. No interest will have accrued prior to disbursement because the account has to
14 be a checking account (non-interest bearing) in order to disburse. The Parties understand and
15 agree that because no interest will have accrued on any funds prior to disbursement, there will be
16 no obligation on the part of Defendant, the Claims Administrator, or any other person to pay any
17 interest upon disbursement under California Code of Civil Procedure section 384, and further
18 agree that any proposed Preliminary Approval Order or Final Approval Order shall reflect the
19 same.

20 d. Should any question arise regarding the determination of eligibility for, or the
21 amounts of, any Individual Settlement Payment under the terms of this Agreement, Class Counsel
22 and Defendant's Counsel shall meet and confer in an attempt to reach agreement. If they cannot
23 agree, the Claims Administrator shall make the final determination, and that determination shall be
24 conclusive, final and binding on all Parties, including all Class Members.

25 e. If a mailed Individual Settlement Payment is not cashed within 180 calendar
26 days of the date printed on the check, the check shall be cancelled and the corresponding amount
27 will be disbursed to the California State Controller's Office's Unclaimed Property Division in the
28 Participating Settlement Class Member's name.

1 14. Certification By Claims Administrator. Upon completion of administration of the
2 distributions, the Claims Administrator shall provide written certification of such completion to
3 the Court and counsel for all Parties.

4 15. Final Approval Hearing and Entry of Final Judgment. Upon expiration of the Opt-
5 Out/Objection Deadline Date, with the Court's permission, a Final Approval Hearing shall be
6 conducted to determine final approval of the Settlement along with the amount properly payable
7 for: (i) reasonable attorneys' fees and costs, (ii) any Service Awards, and (iii) cost of
8 administration. The Final Approval Hearing shall not be held earlier than thirty (30) calendar days
9 from the Opt-Out/Objection Deadline Date. Upon final approval of the Settlement by the Court,
10 the Parties shall present the Final Judgment to the Court for its approval. After entry of the Final
11 Judgment, the Court shall have continuing jurisdiction solely for purposes of addressing: (i) the
12 interpretation and enforcement of the terms of the Settlement, (ii) Settlement administration
13 matters, and (iii) such post-Final Judgment matters as may be appropriate under court rules or as
14 set forth in this Agreement.

15 16. Defendant's Option to Nullify The Agreement. In the event that 3% or more of the
16 Class Members opt-out of the Settlement, Defendant, in its sole discretion, shall have the option of
17 nullifying the Agreement. In order to exercise this option, Defendant must notify Class Counsel in
18 writing within ten (10) business days of learning from the Administrator that the number of opt-
19 outs equals 3% or more. If not timely exercised within the ten (10) business day period, the option
20 is waived.

21 17. Nullification of Settlement Agreement. In the event: (i) the Court does not enter
22 the Final Approval Order specified herein; (ii) the Court does not finally approve the Settlement as
23 provided herein; (iii) the Court does not enter a Final Judgment as provided herein, which
24 becomes final as a result of the occurrence of the Effective Date; (iv) Defendant exercises its
25 option to nullify the Agreement based on an excessive number of opt-outs, as describe in the
26 above paragraph; or (v) the Settlement does not become final for any other reason, this Settlement
27 Agreement shall be null and void. Any order or judgment entered by the Court in furtherance of
28 this Settlement shall be treated as void from the beginning, and the stipulations and recitals

1 contained herein shall be of no force or effect, and shall not be treated as an admission by the
2 Parties or their Counsel. In such a case, the Parties and any funds to be awarded under this
3 Settlement shall be returned to their respective statuses as of the date and time immediately prior
4 to the execution of this Agreement, and the Parties shall proceed in all respects as if this
5 Settlement Agreement had not been executed, except that any fees already incurred by the Claims
6 Administrator shall be paid in equal parts by Named Plaintiff and Defendant.

7 18. No Admission by the Released Parties. The Released Parties, including Defendant,
8 deny any and all claims alleged in the Action, and deny any and all wrongdoing whatsoever. This
9 Settlement is not a concession or admission and shall not be used against Defendant or any of the
10 Released Parties as an admission or indication with respect to any claim of any fault, concession
11 or omission by Defendant or any of the Released Parties. Whether or not the Settlement is finally
12 approved, neither the Settlement, nor any document, statement, proceeding or conduct related to
13 this Settlement, nor any reports or accounts thereof, shall in any event be:

14 a. construed as, offered or admitted in evidence as, received as, or deemed to
15 be evidence for any purpose adverse to the Released Parties, including, but not limited to,
16 evidence of a presumption, concession, indication or admission by any of the Released Parties of
17 any liability, fault, wrongdoing, omission, concession or damage, except for purposes of settling
18 the Action, pursuant to this Settlement and/or with respect to any proceeding to enforce the terms
19 of this Settlement Agreement or Judgment; or

20 b. disclosed, referred to or offered or received in evidence against any of the
21 Released Parties, in any further proceeding in the Action, or any other civil, criminal or
22 administrative action or proceeding except for purposes of settling the Action pursuant to this
23 Agreement and/or with respect to any proceeding to enforce the terms of this Agreement or the
24 Judgment.

25 The Released Parties, including Defendant, shall have the right to use this Settlement,
26 including the releases set forth above, to defend against any claims asserted by Class Members,
27 Aggrieved Employees, and the LWDA that are encompassed within the releases identified above,
28 whether such claims are asserted in the Action, and/or any other lawsuit.

1 19. Publicity/Non-Disclosure. Named Plaintiff and Class Counsel agree that prior to
2 preliminary approval of the Settlement they will keep the terms of this Settlement confidential
3 except for purposes of communicating with Defendant and/or Defendant's Counsel or the Court.
4 Subsequent to entry of a Preliminary Approval Order, if any, Named Plaintiff and Class Counsel
5 agree to limit their statements regarding the terms of the Settlement (including Defendant's
6 Counsel's involvement with the Settlement), whether oral, written or electronic, by the following:
7 (1) They shall not advertise or mention the terms of the Settlement on personal or firm website(s);
8 (2) they shall not discuss the terms of the Settlement with media, general public, or issue press
9 releases; and (3) they shall limit any statements regarding the terms of the Settlement to that
10 information that is publicly available. This does not prohibit Class Counsel from speaking to or
11 responding to inquiries from Class Members, or from translating or requesting the translation of
12 this Settlement for purposes of effectuating the Settlement.

13 20. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning
14 the interpretation, calculation or payment of Settlement claims, or other disputes regarding
15 compliance with this Agreement shall be resolved as follows:

16 a. If the Named Plaintiff, or Class Counsel, on behalf of the Named Plaintiff or
17 any Participating Settlement Class Member or Aggrieved Employee, or Defendant's Counsel, on
18 behalf of Defendant, at any time believes that the other Party has breached or acted contrary to the
19 Agreement, that Party shall notify the other Party in writing of the alleged violation.

20 b. Upon receiving notice of the alleged violation or dispute, the responding Party
21 shall have ten (10) calendar days to correct the alleged violation and/or respond to the initiating
22 Party with the reasons why the party disputes all or part of the allegation.

23 c. If the response does not address the alleged violation to the initiating Party's
24 satisfaction, the Parties shall negotiate in good faith for up to ten (10) calendar days to resolve
25 their differences.

26 d. If Class Counsel and Defendant's Counsel are unable to resolve their
27 differences after twenty (20) calendar days, either Party may file an appropriate motion for
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1 enforcement with the Court. The briefing of such motion shall not exceed five (5) single-spaced
2 pages (excluding exhibits).

3 e. Reasonable attorneys' fees and costs for work done in resolving a dispute under
4 this Paragraph II.20 may be recovered by any party that prevails under the standards set forth
5 within the meaning of applicable law.

6 21. No Retaliation. Defendant shall not take any adverse action against any Class
7 Member because of the Action or because of the existence of, and/or participation in, the
8 Settlement, or because they choose to benefit from the Settlement or to object to or opt out of the
9 Settlement. Defendant shall not take action to discourage Class Members from participating in the
10 Settlement.

11 22. Exhibits and Headings. The terms of this Agreement include the terms set forth in
12 any attached exhibits, which are incorporated by this reference as though fully set forth herein.
13 Any exhibits to this Agreement are an integral part of the Settlement. The descriptive headings of
14 any paragraphs or sections of this Agreement are inserted for convenience of reference only and
15 do not constitute a part of this Agreement.

16 23. Interim Stay of Proceedings. The Parties agree to the Court staying and holding all
17 proceedings in the Action, except such proceedings necessary to implement and complete the
18 Settlement, in abeyance pending the Settlement Hearing to be conducted by the Court.

19 24. Amendment or Modification. This Agreement may be amended or modified only
20 by a written instrument signed by counsel for all Parties or their successors-in-interest.

21 25. Entire Agreement. This Agreement and any attached exhibits constitute the entire
22 agreement among these Parties, and no oral or written representations, warranties or inducements
23 have been made to any Party concerning this Agreement or its exhibits other than the
24 representations, warranties and covenants contained and memorialized in such documents.

25 26. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant
26 and represent that they are expressly authorized by the Parties whom they represent to negotiate
27 this Agreement and to take all appropriate action required or permitted to be taken by such Parties
28 pursuant to this Agreement to effectuate its terms, and to execute any other documents required to

1 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each
2 other and use their best efforts to effect the implementation of the Settlement. In the event the
3 Parties are unable to reach agreement on the form or content of any document needed to
4 implement the Settlement, or on any supplemental provisions that may become necessary to
5 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
6 such disagreement. The person(s) signing this Agreement on behalf of Defendant represent and
7 warrant that he/she/they are authorized to sign this Agreement on Defendant's behalf.

8 27. Binding on Successors and Assigns. This Agreement shall be binding upon, and
9 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

10 28. California Law Governs. All terms of this Agreement and the exhibits hereto shall
11 be governed by and interpreted according to the laws of the State of California.

12 29. Counterparts. This Agreement may be executed in one or more counterparts. All
13 executed counterparts and each of them shall be deemed to be one and the same instrument,
14 provided that counsel for the Parties to this Agreement shall exchange among themselves original
15 signed counterparts.

16 30. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this
17 Settlement is a fair, adequate and reasonable Settlement of this Action and have arrived at this
18 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
19 present and potential.

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

25 32. Cooperation and Drafting. Each of the Parties has cooperated in the drafting and
26 preparation of this Agreement. Hence, in any construction made to this Agreement, the same shall
27 not be construed against any of the Parties.

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

34. Named Plaintiff's Waiver of Right to be Excluded and Object. The Named Plaintiff agrees to sign this Agreement, and by signing this Agreement is bound by the terms herein stated, and further agrees not to opt-out of the Agreement or to object to any of the terms of this Agreement. Non-compliance by the Named Plaintiff with this paragraph shall be void and of no force or effect. Any such objection shall therefore be void and of no force or effect.

PLAINTIFF

Dated: 06 / 06 / 2024

SAUL LOERA

Represented By (approved as to form):

Dated: 06/18/2024

LAWYERS FOR JUSTICE, PC

By:

Edwin Aiwazian
Brittany L. Shaw
Tara Zabehi
Travis J. Maher
Attorneys for Plaintiff and Class

SCHNEIDER WALLACE COTTRELL KONECKY LLP

Dated: 6/10/2024

By:

Carolyn H. Cottrell
Ori Edelstein
Attorneys for Plaintiff and Class

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DEFENDANT

Dated: 7/15/24

HIRSCH PIPE & SUPPLY CO., INC.

By: [Signature]

Its: PRESIDENT/CEO

Represented By (approved as to form):

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Dated: _____

By: _____

Richard J. Simmons, Esq.
Robert Mussig, Esq.
Richard B. Azada, Esq.
Attorneys for Defendant

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DEFENDANT

Dated: _____

HIRSCH PIPE & SUPPLY CO., INC.

By: _____

Its: _____

Represented By (approved as to form):

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP



Dated: July 23, 2024

By: _____

Richard J. Simmons, Esq.
Robert Mussig, Esq.
Richard B. Azada, Esq.
Attorneys for Defendant

EXHIBIT A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Saul Loera, et al. v. Hirsch Pipe & Supply Co., Inc., et al.

Orange County Superior Court Case No. 30-2020-01136571-CU-OE-CXC

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant Hirsch Pipe & Supply Co., Inc. (“Defendant”) for alleged wage and hour violations. The Action was filed by former employee Saul Loera (“Plaintiff” and “Named Plaintiff”) and seeks payment of (1) unpaid wages, unreimbursed business expenses, restitution, penalties, interest, and attorneys’ fees and costs and other relief for a class of hourly-paid or non-exempt employees (“Class Members”) who worked for Defendant in California during the Class Period (March 5, 2016 to [insert date of preliminary approval]) (the “Class Period”); and (2) penalties under the California Labor Code Private Attorneys General Act (“PAGA”) for all hourly-paid or non-exempt employees who worked for Defendant in California during the PAGA Period (January 28, 2019 to [insert date of preliminary approval]) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]**. The actual amount you will receive may be different and depends on several factors, such as total participating class members. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked [REDACTED] Workweeks** during the Class Period and **you worked [REDACTED] Pay Periods** during the PAGA Period. If you believe that you worked more during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant Final Approval. **Your legal rights are affected whether you act or not act. Read this Notice carefully.** You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class

Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Settlement Class Member, though, you will give up your right to assert Class Period wage claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting a written Request To Opt-Out or otherwise notifying the Claims Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant. If you are an Aggrieved Employee, you will remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement, and it is unlawful for it to do so.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Settlement Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the Class Period wage claims against Defendant that are covered by this Settlement ("Released Class Claims," as defined in Section 3 of this Notice).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [insert 45-day Response Deadline]	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Claims Administrator a written Request To Opt-Out. Once excluded, you will be no longer eligible for an Individual Class Payment and cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (as defined in Section 3 of this Notice).
Participating Settlement Class Members Can Object to the Class Settlement but not the PAGA	All Class Members who do not opt-out ("Participating Settlement Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of

Settlement Written Objections Must be Submitted by [insert 45-day Response Deadline]	the Class and Aggrieved Employees. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Settlement Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [insert hearing date] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [insert hearing date]. You don't have to attend, but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone, or by using the Court's virtual appearance platform. Participating Settlement Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/PAGA Pay Periods Written Workweeks/Pay Periods Disputes Must be Submitted by [insert 45-day Response Deadline]	The amount of your Individual Class Payment and Individual PAGA Payment (if any) depends on how many Workweeks you worked at least one day during the Class Period and how many PAGA Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [insert 45-day Response Deadline]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide complaint wage statements, keep requisite payroll records, reimburse business expenses, and thereby engaged in unfair business practices in violation of the California Business & Professions Code section 17200, et seq. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the PAGA. Plaintiff is represented by attorneys in the Action: Schneider Wallace Cottrell Konecky LLP and Lawyers for Justice, PC (collectively, "Class Counsel").

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiff are correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator to help resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to

jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$1,500,000.00 as the Gross Settlement Amount ("Gross Settlement"). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Claims Administrator of the Settlement. The Claims Administrator will use the Gross Settlement to pay the Individual Class Payments, the Individual PAGA Payments, the Named Plaintiff Service Award, Class Counsels' Attorneys' Fees and Cost Award, the Claims Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 20 calendar days after the Judgment entered by the Court becomes final. The Judgment will be final upon the later of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or any other challenge to, the Superior Court's Judgment; (ii) the date affirmance of an appeal of the Judgment becomes final under the California Rules of Court; or (iii) the date of final dismissal of any appeal from the Judgment or the final dismissal of any proceeding on review of any court of appeal decision relating to the Judgment.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$500,000.00 (33⅓% of the Gross Settlement) to Class Counsel for attorneys' fees, as well as an additional amount for actual litigation costs (the "Attorneys' Fees and Cost Award"). To date, Class Counsel have worked and incurred costs on the Action without payment.
 - B. Up to \$5,000.00 to Plaintiff Saul Loera, as a Named Plaintiff Service Award in recognition of his efforts in assisting with the prosecution of the Action on behalf of the Class Members. This Service Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

C. Up to \$ [redacted] to the Claims Administrator for services administering the Settlement.

D. Up to \$30,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% to Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

Participating Settlement Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Claims Administrator will distribute the rest of the Gross Settlement Amount (the “Net Settlement”) by making Individual Class Payments to Participating Settlement Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of one-third (1/3) of each Individual Class Payment to taxable wages (“Wage Portion”) and two-thirds (2/3) to reimbursements, penalties, and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer share payroll taxes (e.g., taxes paid by the employer, including Federal Unemployment Tax Act, Federal Insurance Contributions Act, state unemployment insurance, and all other applicable payroll tax payments) it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Claims Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t claim or cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California State Controller’s Unclaimed Property Division in your name. If the monies represented by your check are sent to the Controller’s Unclaimed Property Division, you should consult the rules of the Fund for instructions on how to retrieve your money.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Settlement Class Member, participating fully in the Class Settlement, unless you notify the Claims Administrator in writing, not later than [insert Response Deadline], that you wish to opt-out. The easiest way to notify the Claims Administrator is to send a written and signed Request to Opt-Out by the [insert 45-day Response

Deadline Response Deadline. The Request to Opt-Out is a form completed, signed, and submitted by a Class Member or his/her representative setting forth the Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Class Settlement. Excluded Class Members will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the facts alleged in the Action during the PAGA Period.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Claims Administrator. The Court has appointed a neutral company, CPT Group, Inc., Inc. (the "Claims Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests to Opt-Out. The Claims Administrator will also decide Class Member Workweek/PAGA Pay Period disputes, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Claims Administrator's contact information is contained in Section 9 of this Notice.
9. Participating Settlement Class Members' Released Class Claims. After the Judgment is final and Defendant has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Settlement Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Settlement Class Members will be bound by the following release:

All Participating Settlement Class Members, on behalf of themselves and their respective former and present representatives, spouses, agents, attorneys, heirs, administrators, successors, and assigns, shall fully and finally release the Released Parties of the "Released Class Claims." The "Released Class Claims" means all claims that were alleged, or could have been alleged, in the Action, and/or arising from or related to the facts and claims alleged in the Action, or that could have been raised in the Action based on the facts and claims alleged. The Released Class Claims include all claims for: unpaid wages, including, but not limited to,

failure to pay minimum wages, straight time compensation, overtime compensation, double-time, and interest thereon; claims alleging failure to properly calculate the regular rate of pay; failure to provide meal periods; failure to authorize and permit rest periods; claims alleging failure to properly calculate and pay meal period and rest period premiums; failure to provide day of rest; failure to reimburse for all necessary business expenses; failure to pay for all hours worked, including claims based on alleged off-the-clock work, reporting time pay, and rounded time; incorrect wage statements; failure to keep accurate records; unlawful deductions and/or withholdings from wages; failure to timely pay wages; failure to timely pay final wages; unfair business practices related to the Released Class Claims; penalties, including recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs. The Released Class Claims expressly include, without limitation, all such claims under: the California Labor Code (including, but not limited to, sections 201, 201.3, 202, 203, 204, 206, 210, 215, 216, 218, 218.5, 218.6, 226, 226.3, 226.6, 226.7, 227.3, 510, 512, 515, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1197.2, 1198, 1198.5, 2698 *et seq.*, 2800, and 2802); the Wage Orders of the California Industrial Welfare Commission; California Business and Professions Code sections 17200, *et seq.*; the California Civil Code; the California Code of Regulations; the California Code of Civil Procedure; California common law; the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*; the Code of Federal Regulations; and federal common law. The Released Class Claims excludes the release of claims not permitted by law. Upon entry of Judgment, Participating Settlement Class Members may be precluded as a matter of law from filing a wage and hour action under the FLSA against the Released Parties for claims and/or causes of action encompassed by the Released Class Claims, which are extinguished and precluded pursuant to Rangel v. PLS Check Cashers of California, Inc., 899 F.3d 1106 (2018). Except as set forth in Paragraph II.2(a) of this Agreement, Participating Settlement Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, or workers' compensation. The Released Class Claims are limited to the Class Period.

10. **Aggrieved Employees' Released PAGA Claims.** After the Court's judgment is final, and Defendant has paid the Gross Settlement and separately paid the Employer Paid Taxes, all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Settlement Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Release is as follows:

All Aggrieved Employees, including those who timely and effectively exclude themselves from (opt-out of) the Class Settlement, shall nevertheless be bound by the Released PAGA Claims and shall receive their Individual PAGA Payment. All Aggrieved Employees, on behalf of themselves and their respective former and present representatives, spouses, agents, attorneys, heirs, administrators, successors, and assigns, shall fully and finally release the Released Parties from all claims for civil penalties under PAGA that were alleged, or could have been alleged, in the Action, based on the allegations asserted in Named Plaintiff's Original Complaint, Named Plaintiff's PAGA Complaint and/or in the PAGA Notice. The "Released PAGA Claims" include, without limitation, claims under the PAGA for: unpaid wages, including, but not limited to, claims based on alleged failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; claims alleging failure to properly calculate the regular rate of pay; failure to provide meal periods; failure to authorize and permit rest periods; failure to properly calculate and pay meal period and rest period premiums; failure to provide day of rest; failure to reimburse for all necessary business expenses; failure to pay for all hours worked, including claims based on alleged off-the-clock work, reporting time pay, and rounded time; incorrect wage statements; failure to keep accurate records; unlawful deductions and/or withholdings from wages; failure to timely pay wages; and failure to timely pay final wages. The Released PAGA Claims include, without limitation, claims under the PAGA for violation of the Wage Orders of the California Industrial Welfare Commission and the following California Labor Code sections: 201, 202, 203, 204, 210, 218, 218.5, 226, 226.7, 510, 512, 551, 552, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2800, and 2802). Aggrieved Employees' Released PAGA Claims are limited to the PAGA Period.

4. HOW WILL THE CLAIMS ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Claims Administrator will calculate Individual Class Payments by (i) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Settlement Class Members during the Class Period and (ii) multiplying the result by each Participating Settlement Class Member's Workweeks.
2. Individual PAGA Payments. The Claims Administrator will calculate Individual PAGA Payments by (i) dividing the Aggrieved Employees' share of the PAGA Payment (\$7,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (ii) multiplying the result by each Aggrieved Employee's PAGA Pay Periods.
3. Workweeks/PAGA Pay Periods Disputes. The number of Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated on the first page of this Notice. You have until [insert 45-day Response Deadline] to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Claims Administrator via mail, email, or fax.

Section 9 of this Notice has the Claims Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Claims Administrator will accept Defendant's calculation of Workweeks and/or PAGA Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Claims Administrator will resolve Workweek and/or PAGA Pay Period disputes based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Settlement Class Members) and Defendant's Counsel. The Claims Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

The Claims Administrator will send, by U.S. mail, a single check to every Participating Settlement Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment, if any. The Claims Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Claims Administrator as soon as possible. Section 9 of this Notice has the Claims Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Claims Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as *Loera, et al. v. Hirsch Pipe & Supply Co., Inc.*, Orange County Superior Court Case No. 30-2020-01136571-CU-OE-CXC, and include your identifying information (full name, address, and email address or telephone number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Claims Administrator must be sent your request to be excluded by [insert 45-day Response Deadline], or it will be invalid.** Section 9 of the Notice has the Claims Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Settlement Class Members have the right to object to the Class Settlement. Class Members may not object to the PAGA Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least 16 court days before the [insert hearing date] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Attorneys' Fees and Litigation Costs, and Named Plaintiff Service Award stating (i) the amount Class Counsel is requesting for

attorneys' fees and litigation costs and (ii) the amount Plaintiff is requesting as a Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Claims Administrator's website at [\[insert website\]](#) or the Court's website at <https://civilwebshopping.occourts.org/>.

A Participating Settlement Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Attorneys' Fees, Litigation Costs, and Named Plaintiff Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low.

The deadline for sending written Notices of Objection to the Claims Administrator is [\[insert 45-day Response Deadline\]](#). Be sure to tell the Claims Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Loera v. Hirsch Pipe & Supply Co., Inc.*, Orange County Superior Court Case No. 30-2020-01136571-CU-OE-CXC, and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Claims Administrator's contact information.

Alternatively, a Participating Settlement Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [\[insert hearing date\]](#) at [\[insert time\]](#) in Department CX105 of the Orange County Superior Court, Civil Complex Center, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701. At the Final Approval Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Claims Administrator. The Court will invite comment from objectors, Class Counsel, and Defendant's Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via the Court's Civil Remote Hearings page (<https://acikiosk.azurewebsites.us/?dept=CX105>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Claims Administrator's website at [\[insert website\]](#) beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment, or any other Settlement documents is to go to the Claims Administrator's website at [\[insert website\]](#). You can also telephone or send an email to Class Counsel or the Claims Administrator using the contact information listed below, or consult the Superior Court website by going to

(<https://civilwebshopping.occourts.org/>) and entering the Case Number for the Action, Case No. 30-2020-01136571-CU-OE-CXC. You can also make an appointment to personally review court documents in the Clerk's Office at the Orange County Superior Court Civil Complex Center by calling (657) 622-6878.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION
ABOUT THE SETTLEMENT.**

Claims Administrator:

Name of Company: CPT Group, Inc.

Email Address: info@cptgroup.com

Mailing Address: 50 Corporate Park, Irvine, CA 92606

Telephone: 1 (800) 542-0900

Fax Number: (949) 419-3446

Class Counsel:

Carolyn H. Cottrell

Ori Edelstein

Schneider Wallace Cottrell Konecky LLP

2000 Powell Street, Suite 1400

Emeryville, California 94608

Telephone: (415) 421-7100

Facsimile: (415) 421-7105

Edwin Aiwarzian

Brittany L. Shaw

Tara Zabehi

Travis J. Maher

Lawyers for Justice, PC

410 West Arden Avenue, Suite 203

Glendale, California 91203

Telephone: (818) 265-1020

Facsimile: (818) 265-1021

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Claims Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the California State Controller's Office Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Claims Administrator if you move or otherwise change your mailing address.