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and on behalf of all others similarly situated

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ORIGINAL FILED**
Superior Court of California
County of Los Angeles

NOV 17 2020

Shemi R. Carter, Executive Officer/Clerk
By Marisela Freddoso, Deputy

FAXED

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEREK LEE, an individual, on his own
behalf and on behalf of all other aggrieved
employees,

Plaintiffs,

v.

JANNEY & JANNEY ATTORNEY
SERVICE, INC., a California corporation,
and DOES 1-50, inclusive,

Defendants.

CASE NO. 19STCV01860

[Assigned for all purposes to Hon. Elihu M.
Berle Dept. SS6]

**SECOND REVISED [~~PROPOSED~~]
ORDER GRANTING PLAINTIFFS'
MOTION FOR APPROVAL OF PAGA
SETTLEMENT**

Reservation Number 370076114491

DATE: September 14, 2020

TIME: 9:00 a.m.

DEPT: SS6

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NOV 12 2020

Room 106

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11 **FOR THE COUNTY OF LOS ANGELES**

12 DEREK LEE, an individual, on his own
13 behalf and on behalf of all other aggrieved
14 employees,

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16 v.

17 JANNEY & JANNEY ATTORNEY
18 SERVICE, INC., a California corporation,
19 and DOES 1-50, inclusive,

20 Defendants.

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1 Plaintiff Derek Lee ("Plaintiff") filed a Motion for Approval of PAGA Settlement. The
2 Court has reviewed the materials and information submitted by the Parties and finds and orders
3 as follows:

4 1. Plaintiff on behalf of himself and as the authorized proxy/agent for the State of
5 California, and defendant Janney & Janney Attorney Service, Inc., ("Defendant") (Plaintiff and
6 Defendant are collectively referred to herein as the "Parties") have agreed to a Settlement of the
7 above-captioned action.

8 2. The Court hereby grants approval of the Settlement based on the terms set forth
9 in the Further Revised Settlement Agreement and General Release (the "Further Revised
10 Settlement Agreement" or the "Settlement"). All defined terms contained herein shall have the
11 same meanings as set forth in the Settlement Agreement. The Settlement Agreement is attached
12 hereto as **Exhibit 1**.

13 3. The Settlement Agreement was executed by Plaintiff, Plaintiffs' counsel,
14 Defendants, and Defendant's counsel. The Court finds that the Settlement is entitled to judicial
15 approval, and meets all of the requirements for approval of a settlement under the Labor Code
16 Private Attorneys General Act (PAGA), including that the Parties complied with Labor Code §
17 2699(1)(2) by submitting a copy of the Settlement Agreement to the California LWDA.

18 4. Pursuant to Labor Code § 2699(1)(2), the Court has reviewed the settlement and
19 finds the Settlement of PAGA claims described therein to be fair, adequate and reasonable. The
20 Court also finds that the LWDA has not objected to the terms of the Settlement. The Court
21 further finds that no other objection to the Settlement has been received by the Court.

22 5. The Court approves and confirms the release and waiver of claims as provided
23 for in the Settlement Agreement.

24 6. The Court also finds that the requested attorneys' fees and costs, Plaintiff's
25 service fee and costs of administration as set forth in the Settlement are reasonable and hereby
26 are approved.

27 7. The Court shall retain continuing jurisdiction over the Parties to this action to
28 ensure effectuation of the Settlement in accordance with the terms of the Settlement and this

1 Order.

2 8. Plaintiff shall submit a copy of this Order to the LWDA within ten (10) days of entry of
3 this Order.

4
5 IT IS SO ORDERED. NOV 17 2020

ELIHU M. BERLE

6 DATED: _____

7 HON. ELIHU M. BERLE
8 JUDGE OF THE SUPERIOR Court

Exhibit 1

Further Revised Settlement Agreement

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter "SETTLEMENT AGREEMENT") is made and entered into by and between PLAINTIFF DEREK LEE (hereinafter "PLAINTIFF"), an individual, on behalf of the State of California, as a private attorney general ("PAGA MEMBERS", as defined below) and DEFENDANT JANNEY & JANNEY ATTORNEY SERVICE, INC. and DOES 1 thru 50, inclusive ("DEFENDANT"), on the other hand. PLAINTIFF and DEFENDANT are collectively referred to herein as "the PARTIES."

This Settlement shall be binding on PLAINTIFF and the PAGA MEMBERS that PLAINTIFF seeks to represent and on DEFENDANT, and its present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with DEFENDANT, subject to the terms and conditions hereof and the approval of the Court.

I. DEFINITIONS

For the purposes of this SETTLEMENT AGREEMENT, the terms below have the following meanings:

1. "LAWSUIT" refers to the civil action filed on or about January 24, 2019, in Los Angeles County Superior Court in the litigation entitled *DEREK LEE, an individual, on behalf of the State of California, as a private attorney general, PLAINTIFF, v. JANNEY & JANNEY ATTORNEY SERVICE, INC.; and DOES 1 to 50, Inclusive, DEFENDANT*, Los Angeles County Superior Court, Case No. 19STCV01860.
2. "PLAINTIFF" or "PAGA REPRESENTATIVE" shall refer to DEREK LEE the named PLAINTIFF in the LAWSUIT.
3. "PAGA MEMBERS" are defined as: all current and former independent contractor process servers for DEFENDANT within the State of California who worked one or more pay periods from January 24, 2018 through the EFFECTIVE DATE.

4. "PAGA COUNSEL" shall refer to Marcus C. Bradley and Kiley L. Grombacher of BRADLEY/GROMBACHER, LLP.

5. "COUNSEL FOR DEFENDANT" and "DEFENSE COUNSEL" shall refer to Amber S. Healy and Lauren B. Shelby of ATKINSON, ANDELSON, LOYA, RUUD & ROMO.

6. "COVERED PERIOD" shall mean the period from January 24, 2018 to the EFFECTIVE DATE.

7. "COURT" refers to the Los Angeles County Superior Court.

8. "SETTLEMENT ADMINISTRATOR" shall refer to Phoenix Settlement Administrators.

9. "COVERED CLAIMS" mean claims for penalties pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code Sections 2698, et. seq., that are based on alleged violations of California Labor Code sections 200-204, 226, 226.7, 227.3, 246, 510, 512, 516, 551, 552, 1174, 1194, 1197-1198, and 2802, California Business and Professions Code section 17200 and the related applicable IWC Wage Order provision for the COVERED PERIOD, including misclassification, meal and rest breaks; unpaid wages, including minimum wages, regular wages, and overtime wages; and wage statement violations; waiting time penalties; failure to provide sick time, failure to provide one day rest in seven days, and unfair business practices. The COVERED CLAIMS are limited to claims for penalties and do not include the release of wages.

10. "ELIGIBLE PAY PERIODS" means the total number of pay periods that each PAGA MEMBER was accepting assignments and received a paycheck from DEFENDANT during the COVERED PERIOD.

11. "EFFECTIVE DATE" means the later of: (a) approval of the SETTLEMENT AGREEMENT is granted by the Superior Court of California for the County of Los Angeles, or other court assuming jurisdiction of this matter; (b) if any timely objections or intervenor

requests are filed and not subsequently withdrawn, the 60th day after the Court enters an Order or Judgment approving of this PAGA SETTLEMENT AGREEMENT; (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the material terms of the SETTLEMENT AGREEMENT; or (d) if no timely objections or intervenor requests are filed, or if all objections and/or interventions are withdrawn, the date upon which the Court enters an order approving the PAGA SETTLEMENT AGREEMENT.

12. "RELEASEES" shall mean DEFENDANT JANNEY & JANNEY ATTORNEY SERVICE, INC., and all of its present and former parent companies, subsidiary companies, affiliates, holding companies, divisions, successors, assignees, owners, shareholders, insurers, legal representatives, assigns, employees, officers, directors, shareholders, operators, attorneys, and agents.

II. RECITALS

13. On January 22, 2019, PLAINTIFF sent notice to the Labor and Workforce Development Agency ("LWDA") giving notice of his intent to pursue a representative action pursuant to the Private Attorneys General Act of 2004, as codified in California Labor Code § 2698, *et seq.* ("PAGA"), on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees, for DEFENDANT'S alleged violations of certain provisions on the Labor Code, including the following Labor Code 200-204, 226, 226.7, 227.3, 246, 510, 512, 516, 551, 552, , 1174, , 1194, 1197-1198, and 2802, and the related applicable IWC Wage Order provision

14. On January 24, 2019, PLAINTIFF filed a putative class and representative action for alleged violations of, among other things, Labor Code 200-204, 226, 226.7, 227.3, 246, 510-512, 516, 551, 552, 558, 1174, 1182, 1194, 1197-1198, 2802, 3353, and 3357, and California Business and Professions Code section 17200, and the related applicable IWC Wage Order provision. On April 10, 2019 PLAINTIFF dismissed all of his class claims and sought to proceed solely on the PAGA representative cause of action on behalf of himself and other

allegedly aggrieved employees (i.e., the PAGA MEMBERS). This SETTLEMENT AGREEMENT relates solely to the claims raised by PLAINTIFF which he has asserted on behalf of the LWDA and the PAGA MEMBERS whom PLAINTIFF seeks to represent in the LAWSUIT.

15. In the LAWSUIT, PLAINTIFF alleged, among other things, that DEFENDANT misclassified its employees as independent contractors, failed to provide meal and rest breaks; failed to pay all wages, including minimum wages, regular wages, and overtime wages; and failed to provide accurate wage statements; waiting time penalties; failed to provide sick time, failed to provide one day rest in seven days, and unfair business practices in violation of, among other things, the Wage Orders and California law, including, but not limited to, Labor 200-204, 226, 226.7, 227.3, 246, 510-512, 516, 551, 552, 558, 1174, 1182, 1194, 1197-1198, 2802, 3353, and 3357, California Business and Professions Code section 17200, and the related applicable IWC Wage Order provision PLAINTIFF alleges that the alleged violations of the Wage Orders and the Labor Code give rise to a claim for penalties under Labor Code § 2699, *et seq.*

16. DEFENDANT denies all of the allegations made by PLAINTIFF and denies any wrongdoing or that it has any liability whatsoever in connection with the claims asserted by PLAINTIFF.

17. The PARTIES have engaged in significant informal discovery including the exchange of summary information, the production of information and documents related to PLAINTIFF and PAGA MEMBERS.

18. Thereafter, the PARTIES attended a full-day mediation before experience employment and wage and hour mediator, Eve Wagner at Signature Resolution. After arms-length negotiations with Ms. Wagner's assistance, on March 9, 2020, the PARTIES were able to reach an agreement in principle resolving the LAWSUIT.

19. PAGA COUNSEL considered the following facts and arguments in determining that the Settlement was fair and reasonable:

a. PAGA COUNSEL considered DEFENDANT's financial status and its ability to pay any judgment against it.

b. DEFENDANT also demonstrated its desire and efforts to comply with California law and a willingness to take curative and/or corrective action, to the extent, if any, that such actions were appropriate.

c. Consequently, PAGA COUNSEL anticipated that, at trial, DEFENDANT would argue that it had no liability, had not engaged in any wrongdoing, and/or if any liability was found that DEFENDANT would assert persuasive arguments that the Court should exercise its discretion under PAGA to significantly reduce or waive any penalties under PAGA.

20. In consideration of the foregoing facts and arguments, time, cost and risks associated with further litigation PAGA COUNSEL determined that the Settlement was fair and reasonable.

21. DEFENDANT denies any liability or wrongdoing of any kind associated with the claims alleged in the LAWSUIT, denies any liability or wrongdoing with regard to the claims asserted, denies liability for the COVERED CLAIMS, and further denies that this action is appropriate for representative treatment for any purpose other than settling this LAWSUIT. DEFENDANT contends, among other things, that it has complied at all times with the California Labor Code, the related California Wage Orders, and the California Business & Professions Code, all other state and federal wage laws, and further contends that all of its respective employees were and are provided timely wages and that the LAWSUIT is without merit. DEFENDANT has denied and continues to deny each and every material factual allegation and alleged claim asserted against it in the LAWSUIT, and has further denied and continues to deny that either PLAINTIFF and the PAGA MEMBERS have suffered any damages, and asserts that DEFENDANT cannot and would not be held liable for any of the claims asserted in the LAWSUIT.

22. The PARTIES recognize that the issues presented in the LAWSUIT are likely

only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. The PARTIES have taken into account the risk and uncertainty of the outcome inherent in any litigation.

23. PLAINTIFF and PAGA COUNSEL contend that they have diligently pursued an investigation of the PAGA MEMBERS' claims against DEFENDANT.

24. PLAINTIFF and PAGA COUNSEL are of the opinion that the settlement on the terms set forth in this SETTLEMENT AGREEMENT is fair, reasonable, and adequate and is in the best interests of the PLAINTIFF, the PAGA MEMBERS, and DEFENDANT in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, PAGA COUNSEL believes that the settlement amount entered into is in the best interests of the PAGA MEMBERS and that the settlement for each PAGA MEMBER is fair, reasonable, and adequate, given the inherent risk of litigation.

25. The purpose of this SETTLEMENT AGREEMENT is to settle and compromise the LAWSUIT and all COVERED CLAIMS that PLAINTIFF and the PAGA MEMBERS have against DEFENDANT and the RELEASEES.

26. Neither the existence of this SETTLEMENT AGREEMENT nor anything contained in this SETTLEMENT AGREEMENT shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of DEFENDANT. Nothing herein shall constitute an admission by DEFENDANT that the LAWSUIT was properly brought as a representative action other than for settlement purposes. Settlement of the LAWSUIT, the negotiation and execution of this SETTLEMENT AGREEMENT, and all acts performed or documents executed pursuant to or in furtherance of this SETTLEMENT AGREEMENT: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of DEFENDANT or of the truth of any of the factual allegations in the operative Complaint in the LAWSUIT; (b) are not, shall not be deemed to be,

and may not be used as, an admission or evidence of any fault or omissions on the part of DEFENDANT in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; (c) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, class treatment, or administration other than for purposes of administering this SETTLEMENT AGREEMENT; and (d) shall not constitute or be deemed a waiver of DEFENDANT's right to compel arbitration of any dispute with a PAGA MEMBER that is not the subject of the releases detailed in this SETTLEMENT AGREEMENT.

27. The Parties agree that upon full execution of this SETTLEMENT AGREEMENT, the matter is stayed in its entirety save for any filings necessary to attain COURT and/or administrative agency approval of the SETTLEMENT AGREEMENT. Should the COURT and/or administrative agency not grant approval of the Stipulation of Settlement, the PARTIES will work in good faith to see if the bases for denying approval can be remedied without material modifications to this SETTLEMENT AGREEMENT. If the PARTIES cannot reach a resolution, they will re-engage Ms. Wagner to see if any remaining issues can be resolved. If after these efforts of resolution are exhausted and the PARTIES remain at an impasse, either Party may elect to lift the stay by giving written notice, after written notice is provided the stay will be lifted five (5) business days thereafter and the PARTIES will be restored to their positions prior to the SETTLEMENT AGREEMENT and the SETTLEMENT AGREEMENT shall be null and void.

III. TERMS OF SETTLEMENT

28. In consideration of the mutual covenants, promises and representations set forth in this SETTLEMENT AGREEMENT, PLAINTIFF, on behalf of himself and the PAGA MEMBERS, and DEFENDANT agree to settle and compromise the LAWSUIT and the COVERED CLAIMS, subject to the terms and conditions set forth in this SETTLEMENT AGREEMENT.

29. The Amount of Settlement. As consideration for the settlement described herein and the release contained in this SETTLEMENT AGREEMENT, DEFENDANT agrees to pay a total settlement of \$70,000.00 ("SETTLEMENT PAYMENT"). The SETTLEMENT PAYMENT will be allocated as follows:

(a) PAGA COUNSEL'S attorney fee request of up to 33.33% of the SETTLEMENT PAYMENT in the amount up to \$23,333.33;

(b) PAGA COUNSEL'S request for costs not to exceed the amount of \$17,000.00;

(c) Settlement administration costs estimated not to exceed \$1,350.00 to be paid to the SETTLEMENT ADMINISTRATOR; and

(d) the remainder of the SETTLEMENT PAYMENT after deducting the items (a)-(c) herein (estimated to be \$28,316.66) shall be designated as PAGA penalties (the "PAGA Penalty Fund") to be allocated between the LWDA and the PAGA MEMBERS pursuant to Labor Code § 2699(i) with 75% paid to the LWDA and 25% paid to the PAGA MEMBERS on a pro-rata basis.

30. Timing of the SETTLEMENT PAYMENT. DEFENDANT shall pay the SETTLEMENT PAYMENT to the SETTLEMENT ADMINISTRATOR no later than thirty (30) calendar days after the EFFECTIVE DATE. The Funds shall be deposited into a Qualified Settlement Fund established by the SETTLEMENT ADMINISTRATOR.

31. Allocation and Calculation of the PAGA Penalties. Each PAGA MEMBER shall receive a portion of the PAGA Penalties on a pro-rata basis. The anticipated total PAGA Penalty Fund is estimated to be \$28,316.66. Seventy-five percent of the PAGA Penalty Fund (approximately \$21,237.50) will be paid to the LWDA as required by Labor Code § 2699(i). The remaining 25% of the PAGA Penalty Fund (approximately \$7,079.16) will be distributed to PAGA MEMBERS on a pro-rata basis based on the formula set forth below. Each PAGA MEMBER'S pro-rata share of the PAGA Penalty Fund represents their Individual

SETTLEMENT PAYMENT.

(a) Individual SETTLEMENT PAYMENT Calculation. PLAINTIFF and each of the PAGA MEMBERS shall receive a pro rata share of the 25% of the PAGA Penalty Fund allocated to PAGA MEMBERS. PLAINTIFF and each PAGA MEMBER shall receive a pro-rata value equal to PAGA MEMBERS' 25% of the PAGA Penalty Fund based on the number of ELIGIBLE PAY PERIODS during the COVERED PERIOD. To the extent required by law, all Individual SETTLEMENT PAYMENTS made to PAGA MEMBERS will be reported on an IRS Form 1099, which shall be issued and administered by the SETTLEMENT ADMINISTRATOR and designated as penalties.

32. PAGA COUNSEL'S Fees and Costs. As part of the request for approval of this Settlement, PAGA COUNSEL will request COURT approval of up to one-third of the SETTLEMENT PAYMENT, which is up to \$23,333.33 as attorney's fees. PAGA COUNSEL will request cost reimbursement in the amount not to exceed \$17,000.00 for costs incurred by PAGA COUNSEL. Should PAGA COUNSEL request a lesser amount for attorney's fees and costs and/or the COURT approve a lesser amount, the difference shall be allocated to the PAGA Penalty Fund and distributed accordingly. Any attorney's fees and costs awarded to PAGA COUNSEL, hereinafter referred to as "PAGA COUNSEL Fees & Costs," shall fully compensate and reimburse PAGA COUNSEL for any and all of the work already performed in connection with the LAWSUIT and any subsequent work to be performed in furtherance of fully and finally resolving the LAWSUIT, including but not limited to securing COURT approval of the settlement, appearing at hearings, making sure that the settlement is fairly and properly administered, defending the settlement in any appeal or other post-approval matter, all other work that PAGA COUNSEL has performed or will perform, and all costs that PAGA COUNSEL has incurred or will incur. Any modifications or reductions by the COURT to PAGA COUNSEL Fees & Costs shall not be deemed a material alteration of this SETTLEMENT AGREEMENT and shall not provide a basis for rendering the SETTLEMENT

AGREEMENT voidable or unenforceable.

33. Tax Treatment of Settlement Amounts. With regard to Individual SETTLEMENT PAYMENTS to PAGA MEMBERS and PLAINTIFF, to the extent required by law, IRS Form 1099s will be issued by the SETTLEMENT ADMINISTRATOR. PAGA MEMBERS and PLAINTIFF shall assume full responsibility and liability for the payment of taxes due on such payments. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. PLAINTIFF acknowledges that he has obtained no tax advice from DEFENDANT and that neither DEFENDANT nor its attorneys has made any representation concerning the tax consequences, if any, of the Settlement Amount or any Individual SETTLEMENT PAYMENT made in furtherance of this SETTLEMENT AGREEMENT or any payment to be made pursuant to this SETTLEMENT AGREEMENT. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. DEFENDANT is not responsible for any employee tax obligations regarding the allocation of the SETTLEMENT PAYMENTS. Payment of PAGA COUNSEL Fees & Costs will be reflected in a Form 1099 issued by the SETTLEMENT ADMINISTRATOR to PAGA COUNSEL who shall assume full responsibility and liability for the payment of taxes due on such payments.

IV. RELEASES

34. Release By All PAGA MEMBERS, The LWDA, and The State Of California. Upon the EFFECTIVE DATE, each PAGA MEMBER (including PLAINTIFF), the LWDA, and the State of California shall, for the COVERED PERIOD fully release and forever discharge DEFENDANT and the RELEASEES from any and all COVERED CLAIMS. As a result of this release, the PAGA MEMBERS, including Plaintiffs, will be unable to bring a claim under, or recover in any other claim brought under, the California Private Attorneys

General Act, California Labor Code § 2698 *et seq.*, for any violations of the COVERED CLAIMS that took place during the COVERED PERIOD.

35. Release by PLAINTIFF. In addition to the released COVERED CLAIMS, PLAINTIFF expressly waives all claims, demands, suits, actions, causes of action, obligations, agreements, contracts, promissory notes, promises, liabilities, debts, compensation, damages, losses, costs, expenses, and attorneys' fees, of any and every kind, nature or character, known or unknown, suspected or unsuspected, actual or potential, absolute or contingent, pending or anticipated of any kind whatsoever, including, without limitation, those which have been alleged, or could have been alleged in the LAWSUIT, or which arise out of, are based upon, are by reason of, relate to, or in any way involve PLAINTIFF'S work with DEFENDANT, including the termination thereof, that arise under any federal, state, provincial or local law, regulation or ordinance, contract, quasi-contract, the common law, public policy, or any constitution, such as, without limitation, the California Fair Employment and Housing Act, Government Code § 12940, *et seq.*, Family and Medical Leave Act, California Family Rights Act, Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act, Older Workers Benefit Protection Act, Age Discrimination in Employment Act, Consolidated Omnibus Budget Reconciliation Act of 1985, Employee Retirement Income Security Act of 1974, Civil Code § 51, *et seq.*, Wage Orders of the Industrial Welfare Commission, Fair Labor Standards Act and California Labor Code, including Labor Code § 132a, arising, accruing, or occurring at any time up to and including the EFFECTIVE DATE hereof, or which may hereafter arise on account of or related to any claim, right, or defense that is the subject of this SETTLEMENT AGREEMENT ("RELEASED CLAIMS").

36. PLAINTIFF'S General Release Under Civil Code § 1542. PLAINTIFF further expressly agrees that this SETTLEMENT AGREEMENT extends to all claims of every nature and kind whatsoever, known or unknown, suspected or unsuspected, past or present, which PLAINTIFF has, or may have, against any DEFENDANT, which arose or accrued at any time up

to and including the EFFECTIVE DATE. PLAINTIFF thus expressly waives all of his rights under § 1542 of the California Civil Code, which states that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

PLAINTIFF understands the significance and consequences of a California Civil Code § 1542 waiver, and understands that he hereby waives all claims, known or unknown, suspected or unsuspected against DEFENDANT. PLAINTIFF alone shall assume full responsibility for any damages or losses caused by this waiver.

Notwithstanding the above, nothing contained in this SETTLEMENT AGREEMENT shall be deemed a release or waiver by PLAINTIFF of claims PLAINTIFF may have against any Releasees for: (a) unemployment benefits; (b) workers' compensation; and (c) any claims that, under applicable federal, state, or local law, are not waivable.

V. APPROVAL STIPULATION

37. The PARTIES recognize that, in accordance with Labor Code § 2699(I), Court approval of the proposed SETTLEMENT AGREEMENT and PAGA penalty allocation is required. In order to comply with the requirements of Labor Code § 2699(I), the PARTIES shall submit a motion to the Court identifying the key terms of this SETTLEMENT AGREEMENT and requesting that the Court approve the PAGA Penalties ("APPROVAL MOTION"). The SETTLEMENT AGREEMENT is contingent upon the approval by the COURT of the APPROVAL MOTION. If the COURT should fail to approve the PAGA Penalties as reflected in this SETTLEMENT AGREEMENT and agreed to by the PARTIES, the PARTIES agree to coordinate efforts to address the COURT'S questions or concerns and submit additional information and/or documents required by the COURT. If, after the PARTIES make further attempts to obtain approval of the terms of the SETTLEMENT

AGREEMENT, the COURT fails to approve this SETTLEMENT AGREEMENT on the terms agreed to by the PARTIES (except for the amount of PAGA COUNSEL'S Fees & Costs requested), or (b) the COURT'S approval of this SETTLEMENT AGREEMENT is reversed, modified, or declared or rendered void, then (i) this SETTLEMENT AGREEMENT shall be considered null and void; (ii) neither this SETTLEMENT AGREEMENT nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all PARTIES to this SETTLEMENT AGREEMENT shall stand in the same position, without prejudice, as if the SETTLEMENT AGREEMENT had been neither entered into nor filed with the COURT. Invalidation of any material portion of this SETTLEMENT AGREEMENT, except for the amount of PAGA COUNSEL'S Fees & Costs, shall invalidate this SETTLEMENT AGREEMENT in its entirety unless the PARTIES agree in a signed writing that the remaining provisions shall remain in full force and effect.

VI. ADMINISTERING THE SETTLEMENT

38. Within thirty (30) calendar days of the EFFECTIVE DATE, DEFENDANT will provide a PAGA MEMBER list ("PAGA MEMBER LIST") containing: (1) name; (2) last known home address; (3) number of pay periods that each PAGA MEMBER was accepting assignments from DEFENDANT and received a paycheck during the COVERED PERIOD; and (4) his/her social security number or other tax identification number. The PAGA MEMBER LIST shall be provided confidentially only to the SETTLEMENT ADMINISTRATOR only and shall not be provided to PAGA COUNSEL or PLAINTIFF.

39. DEFENDANT expressly reserves the right to object to any payment to any PAGA MEMBER who has separately settled or waived any COVERED CLAIMS.

40. Within fifteen (15) calendar days of the EFFECTIVE DATE and the SETTLEMENT ADMINISTRATOR is in receipt of the full SETTLEMENT AMOUNT, the SETTLEMENT ADMINISTRATOR shall mail each PAGA MEMBER their individual pro-rata share of the PAGA Members' PAGA Penalty Fund and any information approved by the

COURT to accompany the payment or agreed to by the PARTIES. To provide the best notice and delivery of the Individual SETTLEMENT PAYMENT checks practicable, any Individual SETTLEMENT PAYMENT checks returned to the SETTLEMENT ADMINISTRATOR as non-deliverable mail, the SETTLEMENT ADMINISTRATOR shall send it by First Class U.S. Mail to the forwarding address affixed thereto, if any. If no forwarding address is provided for an Individual SETTLEMENT PAYMENT check that is returned as non-deliverable, the SETTLEMENT ADMINISTRATOR shall use the best available technology accessible (e.g. skip tracing, address verification, etc.) to the SETTLEMENT ADMINISTRATOR or other mutually agreeable method to locate PAGA MEMBERS and will then mail the Individual SETTLEMENT PAYMENT check to the address identified by First Class U.S. Mail. If no valid address is located, the Individual SETTLEMENT PAYMENT check for that individual will be deemed undeliverable. If any PAGA MEMBERS cannot be located within two attempts at mailings by the SETTLEMENT ADMINISTRATOR, the Individual SETTLEMENT PAYMENT check for that individual will be deemed undeliverable. The SETTLEMENT ADMINISTRATOR shall maintain a list of the postmark date for the original mailing of the Individual SETTLEMENT PAYMENT check to the PAGA MEMBERS, the postmark date of any subsequent mailing to any PAGA MEMBERS, and a list of PAGA MEMBERS who did not receive the Individual SETTLEMENT PAYMENT check due to the inability to locate a valid address using the procedures described herein or who otherwise could not be located within two attempts at mailing. The date of the initial mailing of the Individual SETTLEMENT PAYMENT check shall be conclusively determined according to the records of the SETTLEMENT ADMINISTRATOR.

41. The SETTLEMENT ADMINISTRATOR, within fifteen (15) calendar days of the EFFECTIVE DATE, shall issue payment to the LWDA representing the 75% of the PAGA Penalty Fund as approved by the COURT.

42. The SETTLEMENT ADMINISTRATOR, within fifteen (15) calendar days of

the EFFECTIVE DATE, shall issue the PAGA COUNSEL Fees & Costs to PAGA Counsel as approved by the COURT.

43. Individual SETTLEMENT PAYMENT checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their initial issuance. If there are uncashed Individual SETTLEMENT PAYMENT checks following this period, the SETTLEMENT ADMINISTRATOR will remit any uncashed settlement funds to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et. seq.* for the benefit of the PAGA MEMBER(S) who did not cash their checks until such time that they claim their property, or the property is otherwise disposed of pursuant the Unclaimed Property Laws.

VIII. DUTIES OF THE PARTIES PRIOR TO APPROVAL

44. Promptly upon execution of this SETTLEMENT AGREEMENT, the PARTIES shall jointly apply to the COURT via the APPROVAL STIPULATION for approval of the proposed SETTLEMENT AGREEMENT. The PARTIES shall apply to the COURT for the entry of an order approving this SETTLEMENT AGREEMENT as required by Labor Code § 2699(l). The APPROVAL STIPULATION will request COURT approval of the following:

- a. The PAGA Penalties as reflected in this SETTLEMENT AGREEMENT;
- b. Dismissing the LAWSUIT with prejudice; and
- c. Waiving all rights to appeal.

X. PARTIES' AUTHORITY

45. The signatories hereto hereby represent that they are fully authorized to enter into this SETTLEMENT AGREEMENT and bind the PARTIES hereto to the terms and conditions hereof.

XI. MUTUAL FULL COOPERATION

46. The Parties agree to fully cooperate with each other to accomplish the terms of this SETTLEMENT AGREEMENT, including, but not limited to, execution of such documents

and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The PARTIES to this SETTLEMENT AGREEMENT shall use their best efforts, including all efforts contemplated by this SETTLEMENT AGREEMENT and any other efforts that may become necessary by order of the COURT, or otherwise, to effectuate this SETTLEMENT AGREEMENT and the terms set forth herein.

XII. NO PRIOR ASSIGNMENTS

47. PLAINTIFF and PAGA MEMBERS hereto represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein. None of the rights, commitments, or obligations recognized under this SETTLEMENT AGREEMENT may be assigned by PLAINTIFF, any PAGA MEMBER, or PAGA COUNSEL (which includes PLAINTIFF'S Counsel), without the express written consent of each other Party and their respective counsel. The representations, warranties, covenants, and agreements contained in this SETTLEMENT AGREEMENT are for the sole benefit of the PARTIES under this SETTLEMENT AGREEMENT, and shall not be construed to confer any right or to avail any remedy to any other person.

XIII. NO ADMISSION

48. Nothing contained herein is - nor is the consummation of this Settlement to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of DEFENDANT or any of the RELEASEES. Each of the PARTIES hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant risk, inconvenience and expense. DEFENDANT denies that it has engaged in any unlawful activity, that it has failed to comply with the law in any material respect, or that it has any liability to anyone under the claims asserted in the LAWSUIT. This SETTLEMENT AGREEMENT is entered into solely for the purpose of compromising highly disputed claims.

Nothing in this SETTLEMENT AGREEMENT is intended or shall be construed as an admission of liability or wrongdoing by DEFENDANT.

XIV. NON-EVIDENTIARY USE

49. Whether or not the EFFECTIVE DATE occurs, neither this SETTLEMENT AGREEMENT nor any of its terms nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to DEFENDANT or any other of the RELEASEES, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the RELEASEES of any liability, fault, wrongdoing, omission, concession, or damage; or (b) disclosed, referred to, or offered in evidence against any of the RELEASEES in any further proceeding in the LAWSUIT, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this SETTLEMENT AGREEMENT or for DEFENDANT to establish that a PAGA MEMBER has resolved any of his/her claims released through this SETTLEMENT AGREEMENT.

XV. ATTORNEYS' FEES, COSTS AND EXPENSES

50. Except as specifically set forth herein, each party shall bear its/his own attorneys' fees, costs, and expenses, taxable or otherwise, incurred or arising out of the LAWSUIT, and shall not seek reimbursement thereof from any other party to this SETTLEMENT AGREEMENT.

XVI. CONSTRUCTION

51. The PARTIES hereto agree that the terms and conditions of this SETTLEMENT AGREEMENT are the result of lengthy, intensive, arms-length negotiations between the PARTIES and that this SETTLEMENT AGREEMENT constitutes the entire agreement between PLAINTIFF (on behalf of himself and all other PAGA MEMBERS) and DEFENDANT regarding actual or potential claims asserted by PLAINTIFF against RELEASEES. Excluding any Arbitration or Confidentiality Agreement executed by

PLAINTIFF with DEFENDANT, both of which will remain in full force and effect, this SETTLEMENT AGREEMENT supersedes all prior agreements, written or oral, between or among the PLAINTIFF and DEFENDANT

XVII. CAPTIONS AND INTERPRETATIONS

52. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this SETTLEMENT AGREEMENT or any provision hereof. Each term of this SETTLEMENT AGREEMENT is contractual and not merely a recital.

XVIII. MODIFICATION

53. This SETTLEMENT AGREEMENT may not be amended, changed, altered, or modified, except in writing and signed by the PARTIES (or their successors-in-interest) hereto. This SETTLEMENT AGREEMENT may not be discharged except by performance in accordance with its terms or by a writing signed by the PARTIES hereto.

XIX. MISCELLANEOUS

54. This SETTLEMENT AGREEMENT contains the entire agreement between the PARTIES relating to the Settlement of the COVERED CLAIMS and PLAINTIFF'S RELEASED CLAIMS, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing. The PARTIES have made such investigation of the facts and the law pertaining to the matters described herein and to this SETTLEMENT AGREEMENT as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this SETTLEMENT AGREEMENT, or with respect to any such matters that would alter or change the terms of this SETTLEMENT AGREEMENT. No representations,

warranties, or inducements have been made to any party concerning this SETTLEMENT AGREEMENT other than those expressly set forth or referred to herein.

55. This SETTLEMENT AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

56. Concurrently with sending their Individual SETTLEMENT PAYMENT, the SETTLEMENT ADMINISTRATOR will notify all PAGA MEMBERS of the binding nature of the release in the form of a letter negotiated by PAGA COUNSEL and DEFENDANT'S COUNSEL, attached hereto as Exhibit A. The PARTIES agree that such shall have the same force and effect as if this SETTLEMENT AGREEMENT were executed by each PAGA MEMBER.

57. This SETTLEMENT AGREEMENT may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one SETTLEMENT AGREEMENT, which shall be binding upon and effective as to all PARTIES. The counterparts may be transmitted electronically (PDF) or by facsimile.

58. This SETTLEMENT AGREEMENT shall be governed, construed, and interpreted, and the rights of the PARTIES shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

59. The PARTIES have cooperated in the negotiation and preparation of this SETTLEMENT AGREEMENT. This SETTLEMENT AGREEMENT shall not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this SETTLEMENT AGREEMENT.

60. The Los Angeles County Superior Court shall retain jurisdiction to enforce this SETTLEMENT AGREEMENT pursuant to California Code of Civil Procedure § 664.6. The COURT shall retain continuing jurisdiction over this LAWSUIT and over all PARTIES and

PAGA MEMBERS, to the fullest extent to enforce and effectuate the terms and intent of this SETTLEMENT AGREEMENT.

61. This SETTLEMENT AGREEMENT shall not be subject to collateral attack by any PAGA MEMBER. Such prohibited collateral attack shall include, but not be limited to, claims that the PAGA MEMBER failed, for any reason, to timely receive his or her Individual SETTLEMENT PAYMENT.

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

APPROVED AS TO FORM AND CONTENT:

DATED: 10/29/2020

DocuSigned by:

Derek Lee

ESTATE ATTORNEY

DEREK LEE, for himself and as a representative of other PAGA MEMBERS

DATED: _____

JANNEY & JANNEY ATTORNEY SERVICES, INC.

By: Steve Janney

Its: President

APPROVED AS TO FORM:

DATED: 10/30/20

BRADLEY/GROMBACHER, LLP

By: _____

Marcus Bradley

Kiley Grombacher

Attorneys for PLAINTIFF DEREK LEE and PAGA MEMBERS

PAGA MEMBERS, to the fullest extent to enforce and effectuate the terms and intent of this SETTLEMENT AGREEMENT.

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APPROVED AS TO FORM AND CONTENT:

DATED: _____

DEREK LEE, for himself and as a representative of
other PAGA MEMBERS

DATED: 10/30/2020


JANNEY & JANNEY ATTORNEY SERVICES,
INC.

By: Steve Janney
Its: President _____

APPROVED AS TO FORM:

DATED: _____

BRADLEY/GROMBACHER, LLP

By: _____
Marcus Bradley
Kiley Grombacher
Attorneys for PLAINTIFF DEREK LEE and
PAGA MEMBERS

DATED: October 30, 2020

**ATKINSON, ANDELSON, LOYA, RUUD &
ROMO**

By: _____

Amber S. Healy

Lauren B. Shelby

Attorneys for DEFENDANT JANNEY &
JANNEY ATTORNEY SERVICE, INC.

1
2 **PROOF OF SERVICE**

3 STATE OF CALIFORNIA)
4 COUNTY OF LOS ANGELES) ss.

5 I am employed in the County of Los Angeles, State of California. I am over the age of
6 eighteen and not a party to the within action; my business address 31365 Oak Crest Drive, Suite
240, Westlake Village, CA 91361.

7 On **November 10, 2020** I served the foregoing

8 **SECOND REVISED [PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION**
9 **FOR APPROVAL OF PAGA SETTLEMENT**

10 all interested parties in this action as follows: **SEE ATTACHED SERVICE LIST**

11 Pursuant to the Court's Order Authorizing Electronic Service, the above-named
12 document has been electronically served on counsel of record by transmission through the Case
13 Anywhere system on the date below. The transmission of this document to Case Anywhere
system was reported as complete and a copy of the Case Anywhere Transaction Receipt will be
maintained along with the original document and proof of service in our office

14 Executed **November 10, 2020** , at Westlake Village, California.
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17 _____
Suzette Boucher
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Lee v. Janney & Janney, et al.
LOS ANGELES CASE NO.: 19STCV01860
Service List

**ATKINSON, ANDELSON, LOYA, RUUD &
ROMO**

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