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Attorneys for Defendant
ORORA PACKAGING SOLUTIONS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

APOLINAR ROMERO, individually and, on behalf
Of other individuals similarly situated,

Plaintiff,

v.

ORORA PACKAGING SOLUTIONS d/b/a MPP
UNION CITY DIV 6062, a California corporation
and DOES 1-100 inclusive,

Defendants.

Assigned to the Honorable Frank Roesch

Case No. RG20056838

CLASS ACTION

**CLASS, COLLECTIVE, AND
REPRESENTATIVE ACTION
SETTLEMENT AND RELEASE**

Plaintiff Apolinar Romero (“Plaintiff”), individually, and on behalf of all members of the Settlement Class (as defined herein), and Defendant Orora Packaging Solutions (“Defendant”), hereby enter into this Class, Collective, and Representative Action Settlement and Release Agreement (“Settlement”) as follows:

I. DEFINITIONS

As used in this Settlement, the following terms shall have the following meanings:

1. “Action” refers to the lawsuit entitled *Apolinar Romero v. Orora Packaging Solutions d/b/a MPP Union City Div. 6062*, Alameda County Superior Court Case No. RG20056838.
2. “Class” and “Class Members” are all persons who worked as non-exempt employees of Defendant who worked at the Manufacturing Packaging Products (“MPP”) facility in Union City, California from March 3, 2016 through the date of preliminary approval of the settlement or sixty (60) days from the date of execution of the settlement agreement—whichever is earlier.
3. “Class Counsel” refers to Bradley Grombacher LLP.
4. “Class Settlement Fund” is the Gross Fund Value, less the PAGA Fund, court-approved attorneys’ fees and costs, settlement administration costs, and the Enhancement Payment.
5. “Class Settlement Period” refers to the period from March 3, 2016 through the date of preliminary approval.
6. “Defense Counsel” refers to Seyfarth Shaw LLP.
7. “Effective Date” of the Settlement shall mean the date upon which both of the following have occurred: (i) approval of the settlement is granted by the Superior Court of California for the County of Alameda, or other court assuming jurisdiction of this matter, and (ii) the Court’s judgment approving the settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s judgment, the date the judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court, or, (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the judgment.

8. “LWDA Payment” refers to the \$7,500 of the PAGA Payment that will be payable to the Labor Workforce and Development Agency as the LWDA’s share of the settlement of civil penalties paid under this Agreement pursuant to the Private Attorneys General Act of 2004 (“PAGA”) on behalf of the PAGA Group.

9. “PAGA Fund” refers to an amount not to exceed \$10,000, which will include payment out of the Gross Fund Value of \$10,000, which shall include the LWDA Payment and PAGA Settlement Fund.

10. “PAGA Group” and “PAGA Group Members” are all non-exempt employees of Defendant who worked at the MPP facility in Union City, California from February 28, 2019 through the date of preliminary approval of the settlement.

11. “PAGA Settlement Fund” refers to the \$2,500 of the PAGA Fund that will be distributed to the PAGA Group.

12. “PAGA Settlement Period” refers to the period from February 28, 2019 through the date of preliminary approval of the settlement.

13. “Parties” collectively refers to Plaintiff and Defendant.

14. “Releasees” refers to Defendant and all of its present and former parent companies, subsidiaries, affiliates and joint ventures, and all of their officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them.

15. “Settlement Class” and “Settlement Class Members” refer to (1) all Class Members who do not timely and properly opt out of the settlement provided for in this settlement with respect to the state law claims and (2) all Class Members with respect to claims under the Fair Labor Standards Act (“FLSA”).

II. RECITALS

A. On or about March 3, 2020, Apolinar Romero filed a class action complaint in Alameda County Superior Court, Case No. BC692349, naming Orora Packaging Solutions d/b/a MPP Union City Div. 6062 as the defendant. Defendant filed an answer on May 11, 2020. On September 30, 2020, pursuant to a stipulation by and between the Parties, Plaintiff filed a First Amended Complaint (“FAC”).

1 The FAC alleged failure to pay minimum wages, failure to pay overtime wages; failure to provide meal
2 periods; failure to authorize and permit rest periods; failure to pay all wages owed upon termination of
3 employment; failure to provide compliant wage statements; violation of California's Unfair Competition
4 Law pursuant to Business & Professions Code sections 17200, *et seq.*; and violation of the Private
5 Attorneys' General Act.

6 B. The Parties agreed to engage in mediation prior to class certification. The Parties
7 participated in a full-day of mediation with mediator Tripper Ortman on September 30, 2020. With the
8 assistance of the mediator, the Parties reached a settlement, which included the material terms contained
9 in this Settlement.

10 C. Based on their investigation and evaluation of this case, Class Counsel has concluded that
11 the settlement described in this Settlement is fair, reasonable, and adequate and is in the best interest of
12 the Class in light of all known facts and circumstances, defenses asserted by Defendant, adverse findings
13 regarding liability, and numerous potential appellate issues.

14 D. Neither this Settlement, nor any document referred to or contemplated herein, nor any
15 action taken to carry out the terms of this Settlement, is, may be construed as, or may be used as, an
16 admission, concession, or indication by or against Defendant of evidence of any unlawful conduct, fault,
17 wrongdoing or liability whatsoever.

18 E. The Parties now desire to fully, finally, and forever settle, compromise, and discharge the
19 claims released in Paragraph VI of this Settlement.

20 **NOW, THEREFORE**, in consideration of the mutual covenants, promises, and conditions set
21 forth, the parties agree as follows:

22 **III. NON-ADMISSION OF LIABILITY**

23 A. By entering into this Settlement, Defendant, on behalf of itself and all Releasees, denies
24 any liability for any of the claims in the Action as well as any potential or unknown claims based on
25 wage and hour violations under state or federal law.

26 B. Defendant specifically denies that it or any of the Releasees has engaged in any unlawful
27 or wrongful conduct against Plaintiff or the Class.

C. Defendant further contends that, for purposes other than settlement, the Action is not appropriate for class or collective action treatment.

IV. STIPULATION TO CLASS AND CONDITIONAL CERTIFICATION SOLELY FOR PURPOSES OF THE SETTLEMENT

A. This Agreement is contingent upon approval of class certification under California Code of Civil Procedure Section 382 and collective action certification under 29 U.S.C. § 216(b) by the Court of the Class for settlement purposes only. Defendant does not waive, and instead expressly reserves, its right to challenge the propriety of class certification or collective action certification treatment for any other purpose should the Court not approve the Settlement.

B. The Parties stipulate to class and conditional certification for purposes of the Settlement only. If the Court does not grant Preliminary and Final Approval of the Settlement, the Parties will not stipulate to class and conditional certification, and the Parties will resume litigation as if no settlement had been reached.

C. Evidence of this limited stipulation for settlement purposes only will not be deemed admissible for any purpose in this or any other proceeding.

D. Defendant submits that, for any purpose other than settling this Action, this matter is not appropriate for class or collective action treatment and that evidence of this limited stipulation for settlement purposes only will not be deemed admissible for any purpose in this or any other proceeding. Defendant's position is that if this matter were to be litigated, class and conditional certification would be inappropriate, *inter alia*, because individual issues predominate as to each of the claims alleged in the Action.

V. TERMS OF SETTLEMENT

A. Gross Fund Value

1. Defendant shall pay a settlement payment in a total amount not to exceed \$245,000 (the "Gross Fund Value"). The Gross Fund Value shall include all payments made to Settlement Class Members for wages (including overtime), penalties, interest, and liquidated damages; attorneys' fees and costs; the PAGA payment to the Labor and Workforce Development Agency; the PAGA Settlement Fund; costs of settlement administration; and the Enhancement Payment to Plaintiff.

The Parties stipulate that beyond the Gross Fund Value, and with the exception of Defendant's portion of employer taxes and contributions mandated by law, Defendant shall not owe any further monies to the Settlement Class to resolve the Action and the Released Claims.

B. Attorneys' Fees and Costs

1. Class Counsel shall request that the Court approve an award of attorneys' fees in an amount not to exceed \$81,666.67 (33.33 percent of the Gross Fund Value) and costs upon proof of receipt. Defendant will not oppose this request. Attorneys' fees and costs shall be paid out of the Gross Fund Value subject to approval by the Court.

2. The Court's approval of fees and costs requested by Class Counsel is not a material term of the Settlement. If the Court does not approve or approves only a lesser amount than that requested by Class Counsel for attorneys' fees or costs, the other terms of the Settlement shall still apply. The Court's refusal to approve the attorneys' fees or costs award requested by Class Counsel does not give Plaintiff or Class Counsel any basis to abrogate the Settlement. Any amount of an attorneys' fees and costs award requested by Class Counsel but unapproved by the Court shall be allocated to the Class Settlement Fund.

C. Enhancement Payment to Plaintiff

1. Class Counsel will request that the Court approve an enhancement payment to Plaintiff in an amount not to exceed \$5,000. Distribution of this enhancement payment shall be made at the discretion of Class Counsel and the Court. Defendant will not oppose any request for an enhancement payment to Plaintiff in an amount not to exceed \$5,000. The enhancement payment to Plaintiff shall be paid out of the Gross Fund Value subject to approval by the Court.

2. The enhancement payment shall be allocated as 1099 income, which will not be subject to payroll taxes and withholdings and will be reported on an IRS 1099 Form.

3. Plaintiff will be responsible for correctly characterizing the enhancement payment for tax purposes and for paying any taxes owing on said amount.

D. PAGA Fund

The PAGA Payment shall not exceed \$10,000, and Class Counsel shall request that the Court approve an LWDA Payment not to exceed \$7,500 that shall be paid from the PAGA Fund. Class

Counsel shall request that the Court approve a PAGA Settlement Fund not to exceed \$2,500 that shall be paid from the PAGA Fund for distribution to the PAGA Group Members. The PAGA Fund, which includes both the LWDA Payment and PAGA Settlement Fund, shall be paid out of the Gross Fund Value.

E. Settlement Administration Fees and Costs

The Parties have selected [REDACTED] to be the third-party administrator ("Settlement Administrator") to disseminate the Notice of Class Action Settlement ("Class Notice"), handle the Class Data, update Class Members' mailing addresses before the initial mailing of the Class Notice, calculate the pro rata portion of the Net Fund Value that each Settlement Class Member would be entitled to receive under the Settlement ("Individual Settlement Share"), prepare declarations regarding the settlement administration, provide weekly status reports, resolve disputed claims, establish a Qualified Settlement Fund account pursuant to Section 468B(g) of the Internal Revenue Service Code, issue settlement checks, void uncashed settlement checks, calculate the employer's share of taxes and contributions mandated by law in connection with the wage portion of Individual Settlement Shares, and issue to Settlement Class Members forms W-2 (for the wage portion of Individual Settlement Shares) and forms 1099 (for the non-wage portion of Individual Settlement Shares) for all amounts paid under this Settlement. The Settlement Administrator shall furnish its own Employer ID Number and calculate all settlement checks and payroll deductions and withholdings required under law based on information that will be confidentially furnished by Defendant.

F. Employer's Portion of Payroll Taxes

Defendant's portion of employer taxes and contributions mandated by law (e.g., FICA, FUTA, etc.) on that portion of the Individual Settlement Share allocated to wages will be paid in addition to the Gross Fund Value.

G. Class Settlement Fund

After deducting the Court-approved sums for the Plaintiff's enhancement payment, Class Counsel's attorneys' fees and costs, the PAGA Fund, and settlement administration costs from the Gross Fund Value, the remaining balance ("Class Settlement Fund") will be distributed to Settlement Class

Members on a proportionate basis as described below without the need to return a claim form. No portion of the Net Fund Value shall revert to Defendant under any circumstances.

VI. CLAIMS RELEASED BY THIS SETTLEMENT

A. Claims Released by the Class and Plaintiff

1. Upon the final approval by the Court of this settlement, and except as to the right to enforce the terms and conditions of this settlement, all Class Members who have not opted-out of the settlement shall fully release Defendant and all of their present and former parent companies, subsidiaries, affiliates and joint ventures, and all of their officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them ("Releasees"), from any and all claims that were pled or could have been pled, based on, or which arise out of the facts alleged in the complaints in the Action, arising during the Class Settlement Period. This include known and unknown claims arising under California Labor Code sections 201-203, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1198, and the IWC Wage Orders, the California Unfair Competition Law, Business and Professions Code section 17200 et seq., and the Fair Labor Standards Act, 29 U.S.C. section 201, et seq. ("Released Claims"). The Released Claims will include claims under the Fair Labor Standards Act ("FLSA") for those individuals, and only those individuals, who cash a check issued pursuant to this Settlement as they will be deemed to have opted into a release of related FLSA claims.

2. Upon the final approval by the Court of this settlement, and except as to the right to enforce the terms and conditions the settlement, all Class Members who have not submitted a valid Request for Exclusion Form will fully release Defendant and Releasees from the Released Claims.

3. The Parties stipulate that beyond the Gross Fund Value, Defendant shall not owe any further monies to the Settlement Class based upon the claims made in the Lawsuit.

B. Claims Released by the PAGA Group

Upon the final approval by the Court of this settlement, each PAGA Group Member will release Defendant and Releasees of all claims under the California Private Attorneys General Act of 2004 ("PAGA") that were pled or could have been pled, based on, or which arise out of the facts alleged in the operative complaint during the PAGA Settlement Period. This includes, but is not limited to PAGA

claims based on California Labor Code sections 201-203, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1198, and the IWC Wage Orders.

VII. NOTICE TO SETTLEMENT CLASS MEMBERS

A. Defendant shall provide the Settlement Administrator within fourteen (14) days of preliminary approval with a list containing the names, employee identification numbers, last known addresses, last known telephone number (if readily available), number of pay periods worked during the Class Settlement Period and PAGA Settlement Period, and social security number ("Class Data"). The Settlement Administrator will calculate the number of pay periods based upon the employment dates provided. This information is being provided confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of contact information of the Class. The Settlement Administrator shall not share the Class information with any other Party or counsel for any of the Parties. This information is to be used only to carry out the Settlement Administrator's duties as specified in this Settlement.

B. The Settlement Administrator will send the Class Notice and the estimated Individual Settlement Share to each Class Member by First Class U.S. Mail within twenty-one (21) days of receipt of the Class Data.

C. To provide the best notice practicable, any Class Notice returned to the Settlement Administrator as non-deliverable with an updated mailing address affixed shall be sent by First Class U.S. Mail to the forwarding address affixed thereto. If a Class Notice is returned as undeliverable without a forwarding address affixed thereto, the Settlement Administrator shall attempt to locate a current mailing address for the Class Member by skip tracing using the Class Member's Social Security Number and will mail the Class Notice to the updated address identified. If no current address can be located, the Class Notice for that individual will be deemed undeliverable. If a Class Member cannot be located within two attempts at mailings by the Settlement Administrator, the Class Notice for that individual will be deemed undeliverable and the Class Member will remain bound by the Settlement.

D. On the remailing of Class Notices by the Administrator to an updated mailing address, the Settlement Administrator shall keep a record of the postmark mailing dates such remailed Class Notices, and keep track of all undelivered Class Notices.

VIII. COMPUTATION AND DISTRIBUTION OF NET SETTLEMENT AMOUNT AND CLASS COUNSEL PAYMENT

A. Deposit of Gross Fund Value

1. The Settlement Administrator shall establish a Qualified Settlement Fund account pursuant to Section 468B(g) of the Internal Revenue Service Code for the purpose of administering the settlement, into which the Gross Fund Value will be deposited.

2. Within fourteen (14) calendar days after the Effective Date, Defendant shall deposit the Gross Fund Value into the Qualified Settlement Fund.

B. Formula for Calculating Individual Class Settlement Share

The portion of the Class Settlement Fund available to pay the Individual Settlement Shares to Settlement Class Member shall be determined as follows:

1. Each eligible Settlement Class Member's Individual Settlement Share will be determined based on the number of whole pay periods he or she worked as a non-exempt employee at the Manufacturing Packaging Products ("MPP") facility in Union City, California for Defendant during the Class Settlement Period ("Class Pay Periods"). Defendant's employment records shall be determinative for purposes of calculating the Class Pay Periods and any payments under the Settlement.

2. Class Pay Periods will be determined using the dates of active employment by Defendant (i.e., exclusive of leaves of absences) as a non-exempt employee at the Manufacturing Packaging Products ("MPP") facility in Union City, California during the Class Settlement Period.

3. Settlement Class Members' Individual Settlement Shares shall be determined by dividing the Net Fund Value by the total number of Class Pay Periods for all Settlement Class Members, to arrive at a value per Class Pay Period ("Class Pay Period Value"), and then multiplying each Settlement Class Member's individual Class Pay Periods by the Class Pay Period Value.

4. Within ten (10) calendar days after final approval of the Settlement, the Settlement Administrator shall calculate the Individual Class Settlement Share to be paid to the Settlement Class Members in accordance with the terms of this Settlement.

5. Settlement Class Members who dispute the number of Class Pay Periods credited to them may submit a written letter disputing the number no later than 45 calendar days after the Class Notice is mailed.

C. Formula for Calculating PAGA Settlement Shares

The portion of the PAGA Settlement Fund paid to each PAGA Group Member shall be determined as follows:

1. Each eligible PAGA Group Member's PAGA Settlement Share will be determined based on the number of whole pay periods he or she worked as a non-exempt employee at the Manufacturing Packaging Products ("MPP") facility in Union City, California for Defendant during the PAGA Period ("PAGA Pay Periods"). Defendant's employment records shall be determinative for purposes of calculating the PAGA Pay Periods and any payments under the Settlement.

2. PAGA Pay Periods will be determined using the dates of active employment by Defendant (i.e., exclusive of leaves of absences) as a non-exempt employee at the Manufacturing Packaging Products ("MPP") facility in Union City, California during the PAGA Period.

3. PAGA Group Members' PAGA Settlement Shares shall be determined by dividing the PAGA Settlement Fund Value by the total number of PAGA Pay Periods for all PAGA Group Members, to arrive at a value per pay period ("PAGA Pay Period Value"), and then multiplying each PAGA Group Member's individual PAGA Pay Periods by the PAGA Pay Period Value.

4. Within ten (10) calendar days after final approval of the Settlement, the Settlement Administrator shall calculate the PAGA Settlement Shares to be paid to the PAGA Group Members in accordance with the terms of this Settlement.

5. PAGA Group Members who dispute the number of Workweeks credited to them may submit a written letter disputing the number no later than 45 calendar days after the Class Notice is mailed.

D. Distribution of Individual Class Settlement Shares and PAGA Settlement Shares

1 1. The Settlement Administrator shall distribute the settlement checks containing
2 each Settlement Class Member's Individual Class Settlement Share and each PAGA Group Member's
3 PAGA Settlement Share within twenty (20) business days after the Effective Date. The Settlement
4 Administrator shall furnish its own Employer ID Number and calculate all settlement checks and payroll
5 deductions and withholdings required under law based on information that will be confidentially
6 furnished by Defendant.

7 2. Opt-in and release language regarding the release of the FLSA claim will be
8 printed on the settlement checks issued to Settlement Class Members, with instructions that endorsing,
9 cashing, depositing, or otherwise negotiating such check constitutes consent under the FLSA to opt into
10 the collective action. The language to be included will be substantially similar to the following:

11 My endorsing, cashing, or depositing of this check constitutes my consent to join the
12 lawsuit entitled Apolinar Romero v. Orora Packaging Solutions, pending in the Superior
13 Court of the State of California for the County of Alameda, Case No. RG20056838,
pursuant to the provisions of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. Section
216(b).

14 3. All settlement checks will expire after one hundred eighty (180) days of issuance,
15 after which point they will be cancelled. The sum value of all expired checks will be tallied by the
16 Settlement Administrator. All such uncollected funds will escheat to the State of California's
17 Controller, to be held in the name of each expired check payee, pursuant to applicable unclaimed
18 property laws.

19 4. The Settlement Administrator shall calculate all Individual Class Settlement
20 Shares and payroll deductions based on information that will be confidentially furnished by Defendant.
21 The Settlement Administrator will prepare all necessary tax reporting and documentation with respect to
22 payments made pursuant to this Agreement. The Settlement Administrator will provide the requisite
23 IRS Forms 1099 and W2 to Settlement Class Members and PAGA Group Members with their Individual
24 Class Settlement Shares and PAGA Settlement Shares. The tax documents shall reflect payment for the
25 year in which payment is made pursuant to this Settlement.

26 5. For the pro rata portion of the Class Settlement Fund paid to Settlement Class
27 Members, the Parties agree that, for purposes of this settlement, 67% will be allocated to 1099 income
28 and 33% will be allocated to W-2 income and subject to withholding. For the pro rata portion of the

PAGA Settlement Fund paid to PAGA Group Members, the Parties agree that, for purposes of this settlement, 100% will be allocated to 1099 income.

6. For the portion of the Individual Settlement Share allocated to wages, the Settlement Administrator shall be responsible for submitting the appropriate amount of the employees' and employer's share of payroll taxes and withholdings to the appropriate state and federal tax authorities.

7. None of the payments made pursuant to this Settlement will be considered for purposes of determining eligibility for, vesting or participation in, calculation of, or contributions to any welfare or benefit plans, including, without limitation, all plans, subject to ERISA. The Parties agree that these payments do not represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy. These payments also will not be considered wages, compensation, or annual earnings for benefits in any year for purposes of determining eligibility for, or benefit accrual within, any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

E. Class Counsel Payment

The Class Counsel Payment shall be distributed within twenty (20) days after the Effective Date.

F. Settlement Administration Payment

Within twenty (20) days after the Effective Date, the Settlement Administrator shall deduct the Court-approved sum for payment of its fee for administering the Settlement pursuant to its terms.

IX. OBJECTIONS AND OPTING OUT OF THE SETTLEMENT

A. Objections to the Settlement

1. Settlement Class Members desiring to object to the Settlement should submit written objections to the Settlement, postmarked no later than 45 calendar days after the Class Notice of Settlement is mailed. Only Settlement Class Members will be able to object to the Settlement.

2. Settlement Class Members may also appear at the Final Fairness Hearing to present any objections.

B. Requests to Be Excluded From the Settlement

1. Class Members who wish to exclude themselves from the Settlement must submit a written letter seeking exclusion from the Settlement ("Request for Exclusion"). A Request for Exclusion will be deemed to be timely if postmarked on or before 45 days of the initial mailing of the Class Notice.

2. Class Members who timely submit a request for exclusion from the Settlement may not also submit an objection to the Settlement as the Settlement no longer affects them.

3. A Request for Exclusion will exclude the Class Member from receiving an Individual Class Settlement Share and that Class Member will not have released the Released Claims. However, a Class Member who submits a Request for Exclusion will still remain a member of the PAGA Group, will receive a PAGA Settlement Share, and will release the PAGA claims in Section VI.B of this Agreement.

C. Defendant's Right to Revoke

Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement within fifteen (15) calendar days after the 45-day deadline for Class Members to timely request exclusion if ten (10) percent or more of the Class Members submit timely and valid Requests for Exclusion.

X. SCHEDULE FOR SEEKING COURT APPROVAL AND FAIRNESS HEARING

The following procedures for obtaining the Court's approval shall be implemented with respect to the Settlement, notifying the Class, and processing all benefits provided under this Settlement:

A. Stay of All Litigation

Pending preliminary and final approval of the Settlement, the Parties agree that there will be a stay of all litigation activity. The parties will request that the Court, in its preliminary approval of this settlement, enjoin Class Members from initiating or prosecuting any proceeding on any claim to be released pursuant to this Settlement, unless and until the Class Member has opted out of the class in the manner described above.

1 B. Request for Court Approval

2 Class Counsel will prepare and file a motion for preliminary approval, and share a draft of this
3 motion and the motion for final approval with Defense Counsel sufficiently prior to filing so that
4 Defense Counsel has time to provide Class Counsel with comments. Class Counsel shall seriously
5 consider in good faith Defense Counsel's comments prior to filing either motion.

6 C. Duties of the Parties Following Final Court Approval

7 Following final approval of the Settlement, Class Counsel will submit a [proposed] Final Order
8 and Judgment that is mutually agreeable to the Parties approving the Settlement, adjudicating the terms
9 thereof to be fair, reasonable and adequate, directing consummation of all terms and provisions in this
10 Settlement and without affecting the finality of the Order Granting Final Approval and Judgment,
11 allowing the Court to retain jurisdiction of all matters relating to the interpretation, administration,
12 implementation, effectuation and enforcement of the Final Approval Order and the Settlement
13 Agreement.

14 **XI. MISCELLANEOUS PROVISIONS**

15 A. Tax Treatment and Tax Indemnification

16 Defendant is not giving any tax advice in connection with the Settlement or any payments to be
17 made pursuant to this Settlement. Settlement Class Members will be responsible for correctly
18 characterizing the Individual Settlement Share for tax purposes and paying taxes due, if any.

19 B. Mutual Full Cooperation

20 1. Plaintiff, Defendant, Class Counsel and Defense Counsel agree to fully cooperate
21 with each other to accomplish the terms of this Settlement, including, but not limited to, execution of
22 such documents and to take such other action as may reasonably be necessary to implement the terms
23 herein. The Parties agree to use their best efforts and any other efforts that may become necessary by
24 Order of the Court, or otherwise, to effectuate the terms of this Settlement.

25 C. Filing of Amended Complaint

26 Plaintiff shall file a Second Amended Complaint in the Action to include claims under the FLSA.
27 The Parties will file a joint stipulation seeking leave for Plaintiff to file his Second Amended Complaint.
28

1 D. Parties' Authority

2 The signatories hereto represent that they are fully authorized to enter into this Settlement and
3 are fully authorized to bind Plaintiff, Settlement Class, and Defendant to all terms stated herein.

4 E. Binding Nature of the Settlement

5 1. This Settlement shall be binding upon, and inure to the benefit of, the successors
6 or assigns of the Releasees. Plaintiff represents, covenants, and warrants that she has not directly or
7 indirectly, assigned, transferred, encumbered, any of the Released Claims.

8 2. This Settlement shall be admissible and subject to disclosure in any proceeding to
9 enforce its terms, notwithstanding the mediation confidentiality provisions that otherwise might apply
10 under federal or state law. Notwithstanding the foregoing, this Settlement may not be admitted into
11 evidence or used in any proceeding except an action, motion or proceeding to approve, interpret or
12 enforce the terms of this Settlement.

13 3. This Settlement may be amended or modified only by a written instrument signed
14 by Class Counsel, Plaintiff, Defense Counsel and Defendant. No rights under this Settlement may be
15 waived except in writing.

16 F. Joint Drafting of Settlement Documents

17 1. Class Counsel and Defense Counsel have arrived at this Settlement as a result of a
18 series of informed and arm's-length negotiations, taking into account all relevant factors, present and
19 potential.

20 2. This Settlement has been drafted jointly by Class Counsel and Defense Counsel
21 and, therefore, in any construction or interpretation of this Settlement, the same shall not be construed
22 against any of the Parties.

23 3. Plaintiff and Class Counsel agree that none of the documents provided to them by
24 Defendant shall be used for any purpose other than the prosecution and Settlement of this Action.

25 G. Execution of the Settlement

26 This Settlement may be executed in one or more counterparts and by facsimile. All executed
27 copies of this Settlement and photocopies thereof shall have the same force and effect and shall be as
28 legally binding and enforceable as the original.

1 H. Waiver of Appeals

2 The Parties and their counsel agree to waive any appeals upon entry of final judgment in the
3 Action.

4 I. Continuing Jurisdiction

5 The Court shall retain continuing jurisdiction over this case to ensure the continuing
6 implementation of the provisions of the Settlement.

7 J. No Undue Publicity

8 Neither the Plaintiff nor Class Counsel shall publicize, or cause to be publicized, directly or
9 indirectly, the discussions resulting in or the existence of this settlement or its terms, in any type of mass
10 media, including, but not limited to, speeches, press conferences, press releases, interviews, television or
11 radio broadcasts, newspapers, messages on the Internet, Facebook, Twitter or any other social media,
12 Class Counsels' or any other website. Breach of this provision shall entitle Defendant in the exercise of
13 their discretion, to nullify the settlement at any time before final approval by the Court. Should Plaintiff
14 or Class Counsel at any time breach this provision, Plaintiff shall forfeit to Defendant the full amount of
15 his Enhancement Payment. Without limitation by the foregoing, Defendant also may enforce this
16 provision through an action for injunctive relief. Plaintiff waives any obligation by Defendant to file a
17 bond in connection with any such action.

18 K. Disputes

19 Any disputes arising out of or relating to this settlement will be submitted to Tripper Ortman for
20 mediation. The parties will split the costs of the mediator and all Parties will bear their own attorneys'
21 fees and other costs incurred, except as otherwise provided herein in Paragraph V.B.

22 Dated: March ³⁰____, 2021

23 **PLAINTIFF, on behalf of himself and the Class**

24 DocuSigned by:

25 *Apolinar Romero*

26 APOLINAR ROMERO

1
2 Dated: ~~March~~ April 07, 2021

ORORA PACKAGING SOLUTIONS



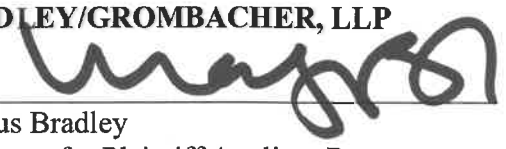
By: Colleen Connelly

Its: VP & General Counsel

7 APPROVED AS TO FORM:

8
9 Dated: March 31, 2021

BRADLEY/GROMBACHER, LLP

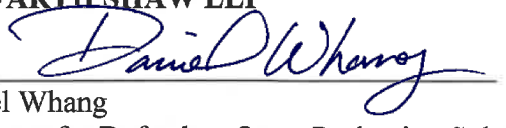
By: 

Marcus Bradley

Attorneys for Plaintiff Apolinar Romero

12 Dated: ~~March~~ April 7, 2021

SEYFARTH SHAW LLP

By: 

Daniel Whang

Attorneys for Defendant Orora Packaging Solutions