

LAW OFFICES OF BUCHSBAUM & HAAG, LLP

BRENT S. BUCHSBAUM, ESQ. (SB# 194816)

brent@buchsbaumhaag.com

LAUREL N. HAAG (SB# 211279)

lauren@buchsbaumhaag.com

100 Oceangate, Suite 1200

Long Beach, CA 90802

Phone: (562) 733-2498

Fax: (562) 733-2498

GATEWAY PACIFIC LAW GROUP, PC

ROGER E. HAAG, (SB# 225791)

roger.haag@gpaclaw.com

111 W. Ocean Blvd., Suite 472,

Long Beach, California 90802

Telephone: (562) 485-6151

Fax: (562) 489-9240

Attorneys for Plaintiffs

LIGHTGABLER

JONATHAN FRASER LIGHT (SB #101049)

JAMIE N. STEIN (SB #219761)

BRIER MIRON SETLUR (SB #273335)

760 Paseo Camarillo, Suite 300

Camarillo, California 93010

Telephone: (805) 248-7208

Fax: (805) 248-7209

Attorneys for Defendants

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

**JORGE AVALOS, individually, and as a
representative of other aggrieved employees,**

Plaintiffs,

vs.

**UNVARNISHED, INC., a California Corporation;
600 SPRING, LLC, a California Limited Liability
Corporation, SCOTT GILLEN, an Individual and
DOES 1 through 250, inclusive,**

Defendants.

Case No.: 20STCV16951

**STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT AND
RELEASE**

Dept: 17

Judge: The Hon. Maren Nelson

Action Filed: 04/30/2020

Trial Date: Not Yet Set

1 **STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE**

2 IT IS HEREBY STIPULATED, by and between Plaintiff JORGE AVALOS on behalf of
3 himself, the Settlement Class Members and the PAGA Members, on the one hand, and Defendants
4 UNVARNISHED, INC., 600 SPRING, LLC, and SCOTT GILLEN, on the other hand, and subject
5 to the approval of the Court, that the above-captioned Lawsuit is hereby being compromised and
6 settled pursuant to the terms and conditions set forth herein (the "Settlement," "Stipulation," or
7 "Agreement").

8 **1. DEFINITIONS**

9 Unless otherwise defined herein, initial capitalized terms used in this Agreement shall have
10 the meanings set forth below:

11 1.1 "Class" or "Class Members" includes all current and former hourly or non-exempt
12 employees who worked at Defendant's locations in California at any time from April 30, 2016 to
13 the date of preliminary approval of the Settlement.

14 1.2 "Class Claims" means all claims and causes of action alleged in the First Amended
15 Complaint filed on July 15, 2021, except the claim under the Private Attorneys General Act
16 ("PAGA").

17 1.3 "Class Counsel" means Brent Buchsbaum, Esq., and Laurel N. Haag, Esq. of the
18 Law Offices of Buchsbaum & Haag, LLP and Roger E. Haag, Esq. of Gateway Pacific Law Group,
19 PC.

20 1.4 "Class Counsel Costs" means expenses and costs actually incurred by Class Counsel
21 according to proof and subject to Court approval for Class Counsel's litigation and resolution of
22 this Lawsuit, not to exceed Seventeen Thousand Dollars (\$17,000.00). Class Counsel Costs shall
23 be paid from the Maximum Settlement Amount. Any portion of the requested Class Counsel Costs
24 that exceeds the Class Counsel Costs shall be a part of the Net Settlement Amount and distributed
25 to Settlement Class Members as provided in this Agreement.

26 1.5 "Class Information" means information regarding Class Members and PAGA
27 Members that Defendant will in good faith compile from its records to provide to the Settlement
28 Administrator. Class Information shall be provided as a password-protected, Microsoft Excel

spreadsheet and shall include each Class Member's: (a) full name; (b) last known address; (c) last known telephone number; (d) Social Security number; (e) start date of employment and/or assignment at Defendant; (f) end date of employment and/or assignment at Defendant; (g) Compensable Weeks (as defined below in Paragraph 1.11); and (h) Compensable Pay Periods (as defined in Paragraph 1.10. Because Social Security numbers are included in the Class Information, the Settlement Administrator shall maintain the Class Information in confidence, it shall be transmitted in password-protected file(s), and access shall be limited to those with a need to use the Class Information as part of the administration of the Settlement.

1.6 "Class Counsel Award" means attorneys' fees for Class Counsel's litigation and resolution of this Lawsuit not to exceed thirty-three and one-third percent (33-1/3%) of the Maximum Settlement Amount (or Sixty-Six Thousand, Six Hundred and Sixty-Seven Dollars (\$66,667.00)), subject to approval by the Court. The Court shall review the requested amount of the Class Counsel Award, and the approved amount shall be paid from the Maximum Settlement Amount. Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be a part of the Net Settlement Amount and distributed to Settlement Class Members as provided in this Agreement.

1.7 "Class Period" means the period from April 30, 2016 through and including the Preliminary Approval Date.

1.8 "Class Representative" means Plaintiff JORGE AVALOS.

1.9 "Class Settlement Payment" means the net amount paid by way of check to each Settlement Class Member for their release of the Released Class Claims. The Class Settlement Payment Amounts shall be calculated pursuant to Paragraph 3.11.

1.10 "Compensable Pay Periods" means all pay periods in which a PAGA Member performed work for Defendant in California during the PAGA Period (as defined below in Paragraph 1.26).

1.11 "Compensable Weeks" means all weeks in which a Class Member performed work for Defendant in California during the Class Period.

1.12 "Court" shall mean the Superior Court of California for the County of Los Angeles.

1 1.13 “Defendants” means Defendants UNVARNISHED, INC., 600 SPRING, LLC, and
2 SCOTT GILLEN.

3 1.14 “Defense Counsel” or “Counsel for Defendant” means LightGabler, 760 Paseo
4 Camarillo, Suite 300, c/o Jonathan Fraser Light, Esq., Jamie N. Stein, Esq., and Brier Miron Setlur,
5 Esq,

6 1.15 “Effective Date” means the latest of the following dates: (i) the date that the deadline
7 for seeking appellate review of the Court’s Final Approval Order and Judgment has passed without
8 the filing of a timely appeal or timely request for review, or, if an appeal of the Court’s Final
9 Approval Order and Judgment is commenced, then (ii) the date that the Court of Appeal or the
10 California Supreme Court has rendered a final ruling affirming the Court’s Final Approval Order
11 and Judgment without material modification.

12 1.16 “Enhancement Award” means the amount approved by the Court to be paid to the
13 Class Representative in recognition of his effort and time as Class Representative. Class Counsel
14 shall seek an Enhancement Award for Plaintiff of up to Ten Thousand Dollars (\$10,000).
15 Defendant agrees not to oppose the motion by Plaintiff for said Enhancement Award, so long as
16 the requested Enhancement Award does not exceed this amount. Any portion of the requested
17 Enhancement Award that is not awarded shall be a part of the Net Settlement Amount and
18 distributed to Settlement Class Members as provided in this Agreement.

19 1.17 “Final Approval Hearing” means the hearing held on the motion for final approval
20 of the Settlement.

21 1.18 “Final Approval Order and Judgment” means the Court’s entry of an order granting
22 final approval of the Settlement and entering judgment in this Lawsuit based thereon, in conformity
23 with California Rules of Court rule 3.769(h).

24 1.19 “Lawsuit” and “Complaint” means the operative wage-and-hour class and
25 representative action Plaintiff filed on July 15, 2021, entitled *Jorge Avalos v. Unvarnished, Inc.,*
26 *600 SPRING, LLC, and Scott Gillen*, now pending in the Superior Court of California for the
27 County of Los Angeles, Case No. 20STCV16951.
28

1 1.20 “LWDA Letters” means Plaintiff’s March 13, 2020 notice to the Labor and
2 Workforce Development Agency (“LWDA”) alleging violations of Labor Code sections 201, 202,
3 203, 204, 510, 558, 226, 226.7, 226.3, 226.8, 510, 512, 1174, 1198.5, 2750.3.

4 1.21 “LWDA Payment” means 75% of the PAGA Payment, which will be paid to the
5 California Labor Workforce Development Agency (“LWDA”) per California Labor Code
6 section 2699(i).

7 1.22 “Maximum Settlement Amount” means Two Hundred Thousand Dollars
8 (\$200,000.00). Defendant’s obligation to fund the Maximum Settlement Amount is limited to
9 \$200,000.00 plus the employer’s share of payroll taxes as set forth in Paragraph 2.7. Defendants
10 shall also fund their employer-side payroll taxes at the same time as they fund the Maximum
11 Settlement Amount. No portion of the Maximum Settlement Amount will revert to Defendant.

12 1.23 “Net Settlement Amount” means the amount of monies available for distribution to
13 Settlement Class Members, which shall be the Maximum Settlement Amount less the Class Counsel
14 Award, Class Counsel Costs, Enhancement Award, Settlement Administration Costs, and PAGA
15 Payment.

16 1.24 “Notice of Class Action Settlement” or “Class Notice” means the Notice of Class
17 Action Settlement, substantially in the form attached hereto as **Exhibit A**.

18 1.25 “PAGA Members” means all current and former hourly-paid or non-exempt
19 employees of Defendant who worked at Defendant’s locations in California at any time from March
20 13, 2019 to the date of the Preliminary Approval of Settlement.

21 1.26 “PAGA Payment” means the allocation of Ten Thousand Dollars (\$10,000.00),
22 payable from the Maximum Settlement Amount, subject to approval by the Court, for penalties
23 under PAGA. 75% of the PAGA Payment is the LWDA Payment and will be paid to the LWDA.
24 The remaining 25% of the PAGA Payment is the PAGA Settlement Payment and will be paid to
25 PAGA Members as described in Paragraph 3.11.4.

26 1.27 “PAGA Period” means the period from March 13, 2019 through and including the
27 Preliminary Approval date.

1 1.28 “PAGA Settlement Payment” means the amount payable to each PAGA Member
2 for the release of his or her Released PAGA Claims, regardless of whether the PAGA Member
3 objects, opts out, or otherwise excludes himself or herself from the release of Released Class
4 Claims. The amount of the PAGA Settlement Payment distributed to each PAGA Member shall
5 be calculated pursuant to Paragraph 3.11.4 herein.

6 1.29 “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either
7 Plaintiff or Defendant, respectively.

8 1.30 “Plaintiff” means JORGE AVALOS.

9 1.31 “Preliminary Approval” or “Preliminary Approval Date” means the date the Court
10 enters an Order preliminarily approving the Settlement.

11 1.32 “Preliminary Approval Order” means the Order granting preliminary approval of
12 the Settlement.

13 1.33 “Released Class Claims” is defined as any and all claims, debts, liabilities, demands,
14 actions, or causes of action of every nature and description that were alleged in the First Amended
15 Complaint dated July 15, 2021 (“Complaint”), or which could have been alleged based on the
16 factual predicates in said Complaint. The Released Claims include, without limitation, all claims
17 for unpaid wages, including, but not limited to, failure to pay minimum wages; failure to pay
18 straight time compensation, overtime compensation double-time compensation, reporting time
19 compensation, and/or interest; missed, late, short or interrupted meal and/or rest periods, including
20 any claims for any alleged failure to pay premiums for missed, late, short or interrupted meal or
21 rest periods, including any claim for any alleged failure to pay such premiums for missed, late,
22 short or interrupted meal or rest periods, or to pay such premiums at the regular rate of
23 compensation, inaccurate or otherwise improper wage statements and/or failure to keep or maintain
24 accurate record; any claim for unfair business practices arising out of, arising in connection with,
25 or related to any or all of the aforementioned claims; any claim for penalties arising out of or related
26 to any or all of the aforementioned claims, including but not limited to, record-keeping penalties,
27 wage statement penalties, minimum-wage penalties, and waiting time penalties; and attorneys’ fees
28 and costs. The Released Claims include all such claims arising under the California Labor Code,

1 including, but not limited to, sections 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 223,
2 225, 225.5, 226, 226.3, 226.7, 226.8, 510, 512, 516, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
3 1198.5, 2750, and 2698 *et seq. as to identified Labor Code Section* and 2699 *et seq.*; the applicable
4 Wage Orders of the California Industrial Welfare Commission as to the facts alleged in the
5 Complaint and all claims that could have been pled based on the alleged facts in said Complaint;
6 California Business and Professions Code section 17200, *et seq.*; the California Civil Code,
7 including but not limited to, section 3287; and California Code of Civil Procedure section 1021.5.
8 The Class Released Claims include any and all claims under the Private Attorneys General Act,
9 Cal. Lab. Code § 2698, *et seq.* (“PAGA”) that were or could have been asserted in this litigation
10 based on the facts alleged or are reasonably related to those asserted in the Complaint. The PAGA
11 Released Claims include PAGA Claims asserted during the PAGA Settlement Period of March 13,
12 2019, through the date of Preliminary Approval. In addition, Class Members who endorse their
13 settlement checks waive and release any claims under the Fair Labor Standards Act, 29 U.S.C. §
14 201 *et seq.* (“FLSA”) arising during the Class Period and reasonably related to any or all of the
15 aforementioned claims. This release excludes the release of claims not permitted by law.

16 -.

17 1.34 “Released Parties” means Unvarnished, Inc., 600 SPRING, LLC, and Scott Gillen
18 as well as Unvarnished, Inc. and 600 SPRING, LLC’s current and former parents, subsidiaries,
19 predecessors and successors, and affiliated entities, and each of their respective owners, officers,
20 directors, managers, supervisors, partners, shareholders, and agents (including managing agents),
21 and any other successors, assigns, or legal representatives, including without limitation Scott
22 Gillen.

23 1.35 “Request for Exclusion” means a Class Member’s request to be excluded from the
24 Class Settlement Payment that is made in conformity with this Agreement, the instructions in the
25 Class Notice, and the Court’s orders, and that results in the Class Member not being bound by the
26 Released Class Claims. A Request for Exclusion shall not apply to eligible Class Members’ (i.e.,
27 PAGA Members) receipt of a PAGA Settlement Payment and such Class Members shall remain
28

bound by the Released PAGA Claims regardless of their Request for Exclusion from the Class Settlement Payment.

1.36 "Response Deadline" means the date that is forty-five (45) calendar days after the Settlement Administrator mails the Class Notice to Class Members and the last date on which Class Members eligible for Class Settlement Payments only may: (a) postmark or fax a Request for Exclusion to the Settlement Administrator; (b) postmark or fax a Notice of Objection (as set forth in Paragraph 3.7) to the Settlement to the Settlement Administrator; or (c) postmark or fax a Dispute (as set forth in Paragraph 3.5) to the Settlement to the Settlement Administrator.

1.37 "Settlement Account" means the account established by the Settlement Administrator pursuant to the terms of this Stipulation into which all monies funded by Defendant under the terms of the Settlement shall be deposited and from which all monies payable under the terms of this Settlement shall be paid, as set forth herein.

1.38 "Settlement Administration Costs" means the amount to be paid to the Settlement Administrator from the Maximum Settlement Amount for the administration of the Settlement. The Settlement Administration Costs amount is presently estimated not to exceed Seven Thousand Dollars (\$7,000.00). If the Settlement Administration Costs awarded exceed the actual costs the balance shall be a part of the Net Settlement Amount and distributed to Settlement Class Members as provided in this Agreement.

1.39 "Settlement Administrator" means Phoenix Class Action Administration Services.

1.40 "Settlement Class Members" or "Settlement Class" means all Class Members who do not submit a valid and timely Request for Exclusion.

2. RECITALS

2.1 Description and Procedural Posture of the Litigation. Plaintiff filed his PAGA notice on March 13, 2020. As a result, the PAGA Period extends from March 13, 2019 to the present. The Class Action complaint was filed on April 30, 2020 in the Los Angeles Superior Court, so the Class Period extends from April 30, 2016 to the present. The Complaint alleged claims for (i) Violation of California Labor Code §§ 510, 1194, 1198 (Unpaid Overtime and Minimum Wages); (ii) Violation of California Labor Code §§ 226(a) and 1174 (Non-compliant

1 Wage Statements); (iii) Violation of California Labor Code §§ 201-203 (Failure to Pay All Wages
2 and on a Timely Basis); (iv) Violation of Labor Code 226.7, 512(a) (Unpaid Meal Period
3 Premiums; (v) Violation of Labor Code 226.7 (Unpaid Rest Period Premiums) and; (vi) Violation
4 of California Business & Professions Code §§ 17200, et seq.

5 Plaintiff alleged that some, but not all, individuals employed by Defendants were
6 misclassified as independent contractors and required to sign "Independent Contractor"
7 agreements but were performing general labor duties. Plaintiff alleges these employees were
8 improperly treated as independent contractors and were not paid all overtime wages. Plaintiff also
9 alleges that other Unvarnished, Inc. employees were not paid overtime wages but were not
10 required to sign "Independent Contractor" agreements and thus were not expressly misclassified.
11 However, Plaintiff alleges they were also not paid all overtime wages due to them.

12 The case was assigned to the Hon. Maren Nelson. Defendants were served on August 7,
13 2020. Plaintiff then submitted a first amended class action complaint on July 15, 2021 alleging a
14 Violation of California Labor Code §§ 2698 et seq. ("PAGA"). Plaintiff alleges that the
15 amendment is based on the "relation back" doctrine. Defendants assert that this amendment is
16 improper and the relation back doctrine is not applicable. Plaintiff also filed a workers'
17 compensation claim in March 2020. Plaintiff's workers' compensation claim has been closed.

18 Plaintiff's Counsel began investigating the facts of the case before filing the PAGA
19 claim notice and civil complaint. Plaintiff's Counsel reviewed the paystubs provided by
20 Plaintiff, as well as a copy of a portion of the independent contractor agreement that Plaintiff
21 had in his possession while concurrently determining Plaintiff's suitability to serve as Class
22 representative.

23 Plaintiff proved himself more than suitable as a class representative through his herculean
24 efforts to locate and contact his former coworkers at Unvarnished, Inc. Many of these individuals
25 were journeyman laborers with temporary contact information. Plaintiff contacted former
26 coworkers based the on last known telephone numbers and addresses in his possession to set up
27 interviews between Plaintiff's counsel and the witness. Almost all of the individuals contacted
28 were initially hesitant to speak to Plaintiff's Counsel due to many reasons, including but not

1 limited to their immigration status. Plaintiff spoke to each witness and his status as a trusted co-
2 worker helped persuade four witnesses to speak with Plaintiff's Counsel. During telephonic
3 interviews with these witnesses, Plaintiff came to Plaintiff's counsel's office so he could be
4 present during the interviews between the witness, Plaintiff's Counsel, and counsel's interpreter.
5 After some of these interviews, Plaintiff even went to witnesses homes to pick up copies of the
6 paystubs in their possession and brought them to Plaintiff's Counsel to analyze. As a result of
7 these interviews, Plaintiff's Counsel was able to calculate an initial estimate of: (1) the number of
8 employees during the Class Period; (2) the number of employees who may have been
9 misclassified as independent contractors; (3) the number of missed rest and meal breaks per week
10 during the Class Period; and (4) the number of unpaid overtime hours per week during the Class
11 Period. These interviews also provided facts that helped Plaintiff's Counsel to eliminate some
12 labor code claims that were initially thought to have merit.

13 After the civil complaint was filed, there were numerous discussions with Defense
14 counsel regarding the merits and potential legal defenses. Plaintiff's Counsel received, among
15 other things data and documents relevant to Class-wide liability ("Class Data") in support of their
16 investigation and evaluation of Class claims. The Class Data comprised of (1) a list of employees
17 during the Class Period (with personal information redacted); (2) the independent contractor
18 agreements signed by 18 of the 110 employees within the Class Period; (3) sections of the
19 employee handbooks and other documents addressing Defendants' wage and hour practices; and
20 (4) timesheets and paystubs of Plaintiff and approximately 60 employees. Defendants stated they
21 could not produce all employee records due to a fire at a facility where some payroll records were
22 stored. Throughout litigation, Plaintiff's Counsel met with Plaintiff to go over his records and
23 spoke with witnesses to discuss and verify the information in the documents provided by
24 Defendants. As a result, the initial estimates and theories on missed rest and meal periods as well
25 as misclassification of employees were revised.

26 The parties worked cooperatively to share information so that any settlement was backed
27 up by a robust disclosure of class data and other relevant discovery. The parties were in regular
28 communication and exchanged information up through and even during the day of the mediation.

1 Plaintiff's counsel performed a number of tasks to prepare the case for litigation or settlement
2 posture, including but not limited to (1) researching wage-and-hour class actions involving
3 similar claims; (2) obtaining and analyzing Defendants' wage-and-hour policies and procedures;
4 (3) obtaining and analyzing time and corresponding payroll records to determine violation rates
5 and penalty payments; (4) researching the latest case law bearing on the theories of liability,
6 specifically California Labor Code Section 558.1 and 2966, et seq.; (5) researching settlements in
7 similar cases; (6) analyzing the value of Plaintiff's claims; (7) drafting the mediation brief and
8 participating in an all-day mediation session with Plaintiff and Paul Grossman, Esq., which the
9 Plaintiff also attended and was an active participant; (8) negotiating the terms of the Settlement;
10 (9) preparing the Joint Stipulation of Settlement and Release; (10) finalizing the Notice of Class
11 Action Settlement; and (11) drafting the preliminary approval papers. (*Id.*)

12 Based on the data provided by Defendants and information obtained from Plaintiff and
13 some of Plaintiff's former co-workers, the parties were able to calculate a reasonably accurate
14 estimate of: (i) the approximate average hourly rate of pay for Class Members; (ii) the total
15 number of former and current employees in the Class Period; (iii) the total number of Class
16 Members in the PAGA period; (iv) the number of pay periods and workweeks worked by all
17 Class Members during the Class Period; (v) the number of missed rest and meal breaks per week
18 during the Class Period and; (vi) the number hours of unpaid overtime per week during the Class
19 Period. Notice of settlement was submitted to the LWDA on March 04, 2022.

20 On July 29, 2021, the Parties attended a mediation with Paul Grossman, Esq. Mr.
21 Grossman is a highly regarded attorney in California labor and a well-respected class action
22 mediator. During the mediation, the parties accepted a mediator's proposal that resolved the
23 Lawsuit, executed a binding and enforceable Memorandum of Agreement, and agreed that a
24 detailed, long-form Stipulation of Class Action and PAGA Settlement and Release would be
25 completed thereafter.

26 The receipt and analysis of the existing Class Data was sufficient for the Parties to make a
27 reasonably accurate and informed decision about the strengths and weaknesses of Plaintiff's
28 theories of liability, Defendants' defenses, Class-wide damages, and benefits of Settlement.

1
2 Certification of the Settlement Class. The Parties stipulate and agree to the certification of
3 this Lawsuit for purposes of this Settlement only. Should the Settlement not become final and
4 effective as herein provided, class certification shall immediately be set aside (subject to further
5 proceedings on motion of any party to certify or deny certification thereafter). The Parties'
6 willingness to stipulate to class certification as part of the Settlement shall have no bearing on,
7 and shall not be admissible in or considered in connection with, the issue of whether a class
8 should be certified in a non-settlement context in this Lawsuit and shall have no bearing on, and
9 shall not be admissible or considered in connection with, the issue of whether a class should be
10 certified in any other lawsuit.

11 2.2 Benefits of Settlement to Class Members and PAGA Members. Plaintiff and Class
12 Counsel recognize the expense and length of continued proceedings necessary to litigate their
13 disputes through trial and through any possible appeals. Plaintiff and Class Counsel have also taken
14 into account the uncertainty and risk of the outcome of further litigation, and the difficulties and
15 delays inherent in such litigation. Plaintiff and Class Counsel are also aware of the burdens of
16 proof necessary to establish liability for the claims asserted in the Lawsuit, both generally and in
17 response to Defendants' defenses thereto (many of which have been shared during the course of
18 the Parties' extensive settlement negotiations), and potential difficulties in establishing damages
19 and entitlement to monetary recovery including civil penalties for the PAGA Members. Plaintiff
20 and Class Counsel have also taken into account Defendants' agreement to enter into a settlement
21 that confers substantial relief upon Class Members and PAGA Members based on the terms set
22 forth herein. Based on the foregoing, Plaintiff and Class Counsel have determined that the
23 Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement and is in the
24 best interests of the Class Members and PAGA Members.

25 2.3 Defendants' Reasons for Settlement. Defendants have concluded that any further
26 defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of
27 time, energy, and resources of Defendants have been and, unless this Settlement is made, will
28 continue to be, devoted to the defense of the claims asserted by Plaintiff. Defendants have also

1 taken into account the risks of further litigation in reaching its decision to enter into this Settlement.
2 Despite continuing to contend that it is not liable for any of the claims set forth by Plaintiff in the
3 Lawsuit, Defendants have, nonetheless, agreed to settle in the manner and upon the terms set forth
4 in this Agreement to put to rest the claims alleged in the Lawsuit.

5 2.4 Class Members' Claims. Plaintiff, on behalf of Class Members and PAGA
6 Members, has claimed and continues to claim that the Released Class Claims and Released PAGA
7 Claims have merit and give rise to liability on the part of Defendants. This Agreement constitutes
8 Plaintiff's good faith compromise of disputed claims. Nothing contained in this Agreement (and
9 exhibits/attachments hereto), no documents referred to herein, and no action taken to carry out this
10 Agreement may be construed or used as an admission by or against the Class Members, PAGA
11 Members or Class Counsel as to the merits or lack thereof of the claims asserted.

12 2.5 Defendants' Defenses. Defendants have claimed and continues to claim that the
13 Released Class Claims and Released PAGA Claims have no merit and do not give rise to liability.
14 Moreover, Defendants challenged and continue to challenge the inclusion of the PAGA claim in
15 the First Amended Complaint. This Agreement constitutes Defendants' good faith compromise of
16 disputed claims. Nothing contained in this Agreement, no documents referred to herein, and no
17 action taken to carry out this Agreement may be construed or used as an admission by or against
18 Defendants as to the merits or lack thereof of the claims asserted.

19 2.6 Maximum Amount Payable by Defendants. Under the terms of this Settlement, the
20 maximum amount payable by Defendants shall not exceed the Maximum Settlement Amount.
21 However, notwithstanding the foregoing, in addition to the Maximum Settlement Amount,
22 Defendants shall also pay the employer share of payroll taxes due and payable on Class Settlement
23 Payments as a result of this Settlement.

24 3. **TERMS OF AGREEMENT**

25 The Parties agree as follows:

26 3.1 Releases Given by Plaintiff and the Settlement Class.

27 3.1.1 As To All Settlement Class Members and PAGA Members. As of the date
28 Defendant funds the Settlement (as set forth in Paragraph 3.10) all Settlement Class Members,

1 including Plaintiff, release the Released Parties from the Released Class Claims and all PAGA
2 Members, including Plaintiff, release the Released PAGA Claims. The Settlement Administrator
3 shall include a legend on the Class Settlement Payment check stating: "By cashing this check, I am
4 affirmatively opting into the release of claims in *Jorge Avalos v. Unvarnished, Inc., 600 SPRING,*
5 *LLC, and Scott Gillen, now pending in the Superior Court of California for the County of Los*
6 *Angeles, Case No. 20STCV16951,* and releasing the Released Class Claims described in the
7 Settlement Agreement."

8 3.1.2 General Release of Class Representative's Claims. Plaintiff, Jorge
9 Avalos, releases and discharges all Released Parties from any and all claims relating to or arising
10 from his employment with Defendants including but not limited to: any and all wage-and-hour
11 claims arising under the laws of the State of California, including, without limitation, statutory,
12 constitutional, contractual, and/or common law claims for wages, damages, restitution,
13 unreimbursed expenses, equitable relief, penalties, liquidated damages, and/or punitive damages
14 (including, without limitation, claims under any applicable Industrial Welfare Commission Wage
15 Order, the California Private Attorneys General Act, or any other provision of the California
16 Labor Code); any and all claims arising under any federal, state, local or other governmental
17 statute or ordinance, including without limitation, the National Labor Relations Act; Title VII of
18 the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Americans with Disabilities Act of
19 1990; the Fair Labor Standards Act; the Occupational Safety and Health Act; the Consolidated
20 Omnibus Budget Reconciliation Act of 1985; the Age Discrimination in Employment Act
21 ("ADEA"); the Older Workers Benefit Protection Act; the Worker Adjustment and Retraining
22 Notification Act ("WARN"); the Employee Retirement Income Security Act of 1974; the Family
23 and Medical Leave Act of 1993; the Rehabilitation Act of 1973; the Internal Revenue Code of
24 1986, as amended; the California Fair Employment and Housing Act; the California Family
25 Rights Act; the California Labor Code; the California Civil Code; the California Government
26 Code; the California Constitution; and the California Unfair Competition Law (Cal. Bus. & Prof.
27 Code § 17200, *et seq.*). Plaintiff expressly waives the protections of California Civil Code section
28 1542, which reads as follows:

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

5 3.2 Tax Liability. The Parties make no representations as to the tax treatment or legal
6 effect of the payments called for hereunder, and Class Members and PAGA Members are not
7 relying on any statement or representation by the Parties in this regard. Class Members and PAGA
8 Members understand and agree that they will be responsible for the payment of any taxes and
9 penalties assessed on the payments described herein and will hold the Parties free and harmless
10 from and against any claims resulting from treatment of such payments as non-taxable damages,
11 including the treatment of such payments as not subject to withholding or deduction for payroll and
12 employment taxes.

13 3.3 Settlement Approval and Implementation Procedures. As part of this Settlement,
14 the Parties agree to the following procedures for obtaining the Court's preliminary approval of the
15 Settlement, certifying a Class for settlement purposes only, notifying Class Members and PAGA
16 Members of the Settlement, obtaining the Court's final approval of the Settlement, and processing
17 the Class Settlement Payments and PAGA Settlement Payments.

18 3.3.1 Preliminary Approval and Certification. The Parties will jointly submit this
19 Stipulation to the Court for its preliminary approval. Such submission will include this Agreement,
20 the proposed Class Notice, attached hereto as Exhibit A, and any motions, memoranda, and
21 evidence as may be necessary for the Court to determine that this Agreement is fair, adequate, and
22 reasonable. The Parties agree to request the Court to enter an order approving the certification of
23 the Class after the preliminary approval hearing in accordance with California Rules of Court rule
24 3.769(c).

25 3.3.2 Class Information. No more than thirty (30) business days after the entry of
26 the Preliminary Approval Order, Defendants shall provide the Settlement Administrator with the
27 Class Information for purposes of administering the Settlement.
28

1 3.3.3 Efforts to Locate Class Members and PAGA Members. The Parties agree
2 that locating and contacting Class Members and PAGA Members is an important and material
3 aspect of the Settlement. In this regard, the Settlement Administrator shall undertake diligent
4 efforts to locate Class Members and PAGA Members and utilize the best practicable means
5 available for purposes of verifying and/or updating the current address and telephone numbers for
6 all Class Members (including skip tracing). After updating against the National Change of Address
7 Database, the address(es) identified by the Settlement Administrator as the current mailing address
8 shall be presumed to be the best mailing address for each Class Member and PAGA Member. The
9 cost of diligently attempting to find the best contact information of the Class Members and PAGA
10 Members shall be included in the Settlement Administration Costs and Defendant shall not, under
11 any circumstances, be required to pay any additional funds for the investigatory duties to be
12 performed by the Settlement Administrator.

13 3.3.4 Notice By First Class U.S. Mail. No more than fourteen (14) calendar days
14 after receiving the Class Information from Defendants as provided herein, the Settlement
15 Administrator shall mail copies of the Class Notice to all Class Members and PAGA Members by
16 First-Class U.S. Mail. Prior to mailing the Class Notices, the Settlement Administrator will use the
17 United States Postal Service National Change of Address Database to locate updated addresses to
18 ensure that the Class Notice is sent to all Class Members and PAGA Members at the addresses
19 most likely to result in receipt of the Class Notice. It will be conclusively presumed that, if an
20 envelope so mailed has not been returned by the Response Deadline, the Class Member and/or
21 PAGA Member received the Class Notice.

22 3.3.5 Undeliverable Notices. Any Class Notice that is returned to the Settlement
23 Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the
24 forwarding address affixed thereto, if any. If no forwarding address is provided, the Settlement
25 Administrator shall make any further reasonable efforts to obtain an updated mailing address within
26 two (2) business days of the date of the return of the Class Notice, including, without limitation,
27 conducting one skip trace search. If an updated mailing address is identified, the Settlement
28 Administrator shall re-send the Class Notice to the Class Member and/or PAGA Member. Class

1 Members to whom a Class Notice is re-sent after having been returned undeliverable to the
2 Settlement Administrator shall have fourteen (14) calendar days thereafter or until the Response
3 Deadline has expired, whichever is later, to mail or fax the Request for Exclusion, Notice of
4 Objection, or Dispute. A Class Notice that is re-sent shall inform the recipient of this adjusted
5 deadline. The date of the postmark of the submission, either based on the date on the return
6 envelope or the date of the fax stamp, shall be the exclusive means used to determine whether a
7 Class Member has timely returned his or her Request for Exclusion, Notice of Objection, or
8 Dispute. Unless otherwise agreed by the Parties, Requests for Exclusion, Notices of Objection, or
9 Disputes shall be deemed valid only if they are signed by the Class Member and postmarked or fax
10 stamped on or before the applicable deadline. If a Class Member's Class Notice is returned to the
11 Settlement Administrator more than once as non-deliverable, then the Settlement Administrator
12 shall not be required to undertake any additional re-mailing of the returned Class Notice.

13 3.3.6 Compliance with the procedures specified in Paragraphs 3.3.2 through 3.3.5
14 herein shall constitute due and sufficient notice to Class Members of this Settlement and shall
15 satisfy the requirement of due process. Nothing else shall be required of, or done by, the Parties,
16 Class Counsel, and Defense Counsel to provide notice of the proposed Settlement.

17 3.4 Translation of Class Notice. A Spanish and English version of the Class Notice will
18 be mailed to each Class Member. The Settlement Administrator shall be responsible for translating
19 the Class Notice from English to Spanish. Costs of translation are included in the Settlement
20 Administration Costs.

21 3.5 Disputes. Class Members and PAGA Members will have the opportunity, should
22 they disagree with Defendants' records regarding their Compensable Weeks for their Class
23 Settlement Payment as stated on their Class Notice, to dispute this information by completing a
24 form attached to the Class Notice ("Dispute") to the Settlement Administrator. The Dispute
25 contains sections for the Class Member to fill out: (1) the name, address, telephone number, last
26 four digits of the Social Security number, and a space for the signature of the Class Member; (2)
27 contains the case name and number of the Lawsuit; (3) indicates that the Class Member seeks to
28 dispute his or her Compensable Weeks for their Class Settlement Payment; (4) provides

1 documentation and/or an explanation to show contrary Compensable Weeks; and (5) is postmarked
2 or fax-stamped by the Response Deadline and returned to the Settlement Administrator at the
3 specified address or fax telephone number. If there is a Dispute, the Settlement Administrator will
4 consult with the Parties to determine whether an adjustment is warranted. Defendant's records will
5 be presumed determinative, but the Settlement Administrator and Parties will determine whether
6 an adjustment is warranted.

7 Any disputes, including those concerning a Class Member's settlement payment or
8 administration of the Settlement (but excluding those disputes that concern the interpretation or
9 enforceability of this Agreement) shall be presented to the Settlement Administrator, who shall
10 recommend a resolution of the dispute. If either Party disagrees with the recommendation, the Court
11 will finally resolve the matter. Prior to any such resolution, counsel for the Parties will confer in
12 good faith to resolve the dispute.

13 3.6 Requests for Exclusion (Opt Outs). The Class Notice shall state that Class Members
14 or PAGA Members who wish to exclude themselves from the Class Settlement Payment and
15 Released Class Claims must submit a written statement to the Settlement Administrator ("Request
16 for Exclusion") as described in this Section 3.6. The Request for Exclusion must be submitted to
17 the Settlement Administrator by the Response Deadline. The Request for Exclusion must: (1)
18 contain the name, address, telephone number, last four digits of the Social Security number, and
19 signature of the Class Member; (2) contain the case name and number of the Lawsuit; (3) clearly
20 indicate that the Class Member seeks to exclude him or herself from the Class Settlement Payment
21 and Released Class Claims; and (4) be postmarked or fax-stamped on or before the Response
22 Deadline and returned to the Settlement Administrator at the specified address or fax telephone
23 number.

24 Any Class Member or PAGA Member who requests to be excluded from the Class
25 Settlement Payment will not be entitled to any recovery for the Class Claims under the Settlement
26 and will not be bound by the terms of the Settlement with respect to the Class Claims or have any
27 right to object, appeal, or comment thereon. Class Members or PAGA Members who receive a
28 Class Notice but fail to submit a valid and timely Request for Exclusion shall be bound by all terms

1 of the Settlement and any Final Approval Order and Judgment entered in this Lawsuit if the
2 Settlement is approved by the Court.

3 No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator
4 shall provide Defense Counsel with a complete list of all Class and PAGA Members who have
5 timely submitted Requests for Exclusion. Any Class or PAGA Member who submits a valid and
6 timely Request for Exclusion shall forfeit his or her right to receive a Class Settlement Payment
7 under this Agreement, the amount of which will be part of the Net Settlement Amount to be
8 distributed to Settlement Class Members as provided in this Agreement but will still release the
9 Released PAGA Claims and receive a PAGA Settlement Payment (if eligible).

10 3.7 Objections. The Class Notice shall state that Settlement Class Members (*i.e.*,
11 Class and PAGA Members who have not excluded themselves from the Settlement) who wish to
12 object to the Class Claims Settlement must submit a written statement of objection ("Notice of
13 Objection") on or before the Response Deadline to the settlement administrator. The Notice of
14 Objection must: (1) contain the name, address, telephone number, last four digits of the Social
15 Security number, and signature of the Class Member; (2) contain the case name and number of
16 the Lawsuit; (3) clearly indicate that the Class Member seeks to object to the Class Claims
17 Settlement; (4) state the legal and factual basis for the objection; (5) state whether the Settlement
18 Class Member intends to appear at the Final Approval Hearing; and (6) be postmarked or fax-
19 stamped on or before the Response Deadline and returned to the Settlement Administrator at the
20 specified address or fax telephone number. The Settlement Administrator shall within five (5)
21 calendar days of receiving a Notice of Objection provide the Parties with copies of the Notices of
22 Objection. The Settlement Administrator will lodge all Notices of Objection that it receives with
23 the Court by attaching them to its declaration to be filed with the Court in support of the motion
24 for final approval of the Settlement.

25 3.8 No Solicitation of Objections or Requests for Exclusion. The Parties agree to use
26 their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or
27 their counsel seek to solicit or otherwise encourage Class Members to submit Requests for
28

1 Exclusion, Notices of Objection, or Disputes or to appeal from the Court's Final Approval Order
2 and Judgment.

3 3.9 Uncashed Checks. If a Settlement check is returned to the Settlement Administrator
4 as undeliverable within thirty (30) calendar days of mailing to a Settlement Class Member, the
5 Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a
6 skip trace search and, if another address is identified, shall re-mail the check to the newly identified
7 address.

8 No portion of the Maximum Settlement Amount will revert to Defendants. If a Settlement
9 check is not cashed or deposited within one hundred eighty (180) calendar days after the date it is
10 mailed to a Settlement Class Member, it will be voided. The funds associated with such voided
11 checks will be transmitted to the Unclaimed Property Fund maintained by the State Controller's
12 Office in the names of the Settlement Class Members whose checks are voided.

13 3.10 Funding and Allocation of Settlement. Defendants are required to fully fund and
14 pay Two Hundred Thousand Dollars (\$200,000.00) of the Maximum Settlement Amount as well
15 as the employer-side payroll taxes within twenty (20) calendar days of the Effective Date.
16 Defendant shall provide the funds for the Settlement to the Settlement Administrator by certified
17 check or by wire transfer. The Settlement Administrator shall deposit the funds in the Settlement
18 Account. Distributions from the Settlement Account shall occur in conformity with the Court's
19 Final Approval Order and Judgment. No more than five (5) calendar days after the Settlement is
20 fully funded, the Settlement Administrator will provide the Parties with an accounting of all
21 anticipated payments and awards from the fund. Payments from the fund shall be made for: (1) the
22 Class Settlement Payment to Settlement Class Members; (2) the Enhancement Award, as specified
23 in this Agreement and approved by the Court; (3) the Class Counsel Award and Class Counsel
24 Costs, as specified in this Agreement and approved by the Court; (4) the Settlement Administration
25 Costs, as specified in this Agreement and approved by the Court; and (5) the PAGA Payment
26 (including the LWDA Payment and PAGA Settlement Payment), as specified in this Agreement
27 and approved by the Court, to the LWDA and eligible Class Members. No portion of the Maximum
28 Settlement Amount will revert to Defendants.

1 3.11 Class Settlement Payments and PAGA Settlement Payments.

2 3.11.1 Class Settlement Payments and PAGA Settlement Payments shall be mailed
3 by regular First-Class U.S. Mail to Settlement Class Members' last known mailing address within
4 thirty (30) calendar days after the Effective Date.

5 3.11.2 Each Settlement Class Member's share of the Net Settlement Amount shall
6 be determined as follows:

- 7 • Total Workweeks = (1 x all Unvarnished, Inc. Employee Classified as
8 "Independent Contractor" Weeks) + (0.7 x all other Unvarnished, Inc. Non-
9 Exempt Employee Weeks)
- 10 • Workweek Value = Net Settlement Amount ÷ Total Workweeks
- 11 • Individual Class Settlement Payment = [(1 x individual Unvarnished Inc.
12 Individuals Classified as "Independent Contractor" Employee Weeks) + (0.7
13 x Non-Exempt Employees of Unvarnished, Inc. Employee Weeks)] x
14 Workweek Value

15 Compensable Weeks for Defendants employees who were not classified as "Independent
16 Contractor" shall have 0.7 of the Workweek Value for Compensable Weeks for non-exempt
17 employees of Unvarnished, Inc. who did not sign "Independent Contractor" agreements. This
18 reduction in Workweek Value is fair because some Unvarnished, Inc. employees were not required
19 to sign Independent Contractor agreements and therefore may not have been subjected to the
20 alleged policies and/or practices that give rise to the regular rate claim, wage statement claim, and
21 waiting-time penalties claim. The Class Settlement Payments will be reduced for employees' share
22 of payroll taxes on the wages portion for each Settlement Class Member.

23

24 3.11.3 Class Settlement Payments (as defined in Paragraph 3.11.2) will be allocated
25 as follows: thirty-three and a third percent (33.33%) as wages and sixty-six and two thirds percent
26 (66.67%) as interest/penalties/non-wage damages. The wages portion of each Class Settlement
27 Payment will be reduced by any legally-mandated deductions for payroll taxes or other required
28 employee-side taxes and withholdings. Defendants' share of any employer-related payroll taxes

1 will be paid by Defendants separately and in addition to the Maximum Settlement Amount. The
2 Settlement Administrator shall issue the appropriate tax documents associated with the Class
3 Settlement Payments and PAGA Settlement Payments, including an IRS Form W-2 for the amounts
4 allocated as wages and an IRS Form 1099 for the amounts allocated as interest/penalties/non-wage
5 damages.

6 3.11.4 The PAGA Settlement Payments payable to each PAGA Member shall be
7 determined as follows:

- 8 • $\text{Pay Period Value} = \text{PAGA Settlement Amount} \div \text{total Compensable Pay}$
9 Periods
- 10 • $\text{Individual PAGA Settlement Payment} = \text{individual Compensable Pay}$
11 $\text{Periods} \times \text{Pay Period Value}$

12 The PAGA Settlement Payments are considered to be entirely civil penalties and will be paid
13 without reduction for any taxes or other withholdings and will be reported on an IRS Form 1099
14 (if required). The Settlement Administrator shall issue the appropriate tax documents associated
15 with the PAGA Settlement Payments.

16 3.11.5 No benefit, including, but not limited to, pension benefits and/or 401(k),
17 shall increase or accrue as a result of any payment made as a result of the Settlement. Except for
18 the Class Representative's Enhancement Award, Class Members and PAGA Members are not
19 eligible to receive any compensation other than Class Settlement Payments and, if eligible, PAGA
20 Settlement Payments, as a result of this Settlement.

21 3.12 Enhancement Award. Defendants agree not to oppose or object to any application
22 or motion by Plaintiff to be appointed Class Representative and for a Class Representative's
23 Enhancement Award. Class Counsel shall seek an Enhancement Award for Plaintiff up to Ten
24 Thousand Dollars (\$10,00.00). Defendants agree not to oppose the motion by Plaintiff for said
25 Enhancement Award, so long as the requested Enhancement Award does not exceed this amount.
26 Any portion of the requested Enhancement Award that is not awarded shall be a part of the Net
27 Settlement Amount to be distributed to Settlement Class Members as provided in this Agreement.
28 The Enhancement Award is intended to be in recognition of the Class Representative's efforts and

1 time as Class Representative. The Enhancement Award shall be paid to Plaintiff from the
2 Maximum Settlement Amount within thirty (30) calendar days after the Effective Date. The
3 Settlement Administrator shall issue an IRS Form 1099-MISC to Plaintiff for his Enhancement
4 Award. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on his
5 Enhancement Award and shall hold harmless Defendants from any claim or liability for taxes,
6 penalties, or interest arising as a result of the Enhancement Award. The Enhancement Award shall
7 be in addition to Plaintiff's Class Settlement Payment and PAGA Settlement Payment as a Class
8 Member and PAGA Member. In the event the Court reduces or does not approve the requested
9 Enhancement Award, Plaintiff shall not have the right to revoke his agreement to the Settlement,
10 which shall remain legally binding and enforceable on the Parties.

11 3.13 Class Counsel Award and Class Counsel Costs. Defendants agree not to oppose or
12 object to any application or motion by Class Counsel for attorneys' fees not to exceed thirty-three
13 percent (33-1/3%) of the Maximum Settlement Amount (*i.e.*, \$66,667.00) and Class Counsel Costs
14 not to exceed Seventeen Thousand Dollars (\$17,000.00), as supported by declaration from Class
15 Counsel, from the Maximum Settlement Amount. Class Counsel shall be paid the Court-approved
16 Class Counsel Award and Class Counsel Costs within thirty (30) calendar days after the Effective
17 Date. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the
18 payment made pursuant to this Paragraph. The Settlement Administrator shall issue an IRS Form
19 1099-MISC to Class Counsel for the payments made pursuant to this Paragraph. In the event the
20 Court reduces or does not approve the requested Class Counsel Award and/or Class Counsel Costs,
21 the Settlement shall remain legally binding and enforceable on the Parties. Any amount requested
22 by Class Counsel for the Class Counsel Award and/or Class Counsel Costs and not granted by the
23 Court shall be included in the Net Settlement Amount before it is distributed as provided in this
24 Agreement.

25 3.14 PAGA Payment. Subject to approval by the Court, the Parties shall allocate a total
26 of Ten Thousand Dollars (\$10,000.00) for payment of penalties pursuant to PAGA per California
27 Labor Code section 2699(i) (*i.e.*, the PAGA Payment). 75% of the PAGA Payment (*i.e.*, \$7,500.00)
28 will be paid to California's Labor Workforce Development Agency ("LWDA") from the Maximum

1 Settlement Amount (*i.e.*, the LWDA Payment) by the Settlement Administrator within thirty (30)
2 calendar days after the Effective Date. The remaining 25% of the PAGA Payment (\$2,500.00)
3 shall be distributed to PAGA Members as described in Paragraph 3.11.4 (*i.e.*, the PAGA Settlement
4 Payment). It is intended by the Parties that the LWDA Payment shall satisfy the distribution
5 requirements of Cal. Lab. Code § 2698, *et seq.* If the Court awards a lesser amount for the PAGA
6 Payment, then the LWDA Payment shall be adjusted to 75% of the Court-approved amount, and
7 the PAGA Settlement Payment shall be adjusted to 25% of the Court-approved amount.

8 3.15 Option to Terminate Settlement. If, after the Response Deadline and before the
9 Final Approval Hearing, the number of individuals who submitted timely and valid Requests for
10 Exclusion from the Settlement exceeds five percent (5%) of all Class Members, Defendants shall
11 have, in its sole discretion, the option to rescind this Settlement within ten (10) days of being
12 informed, in writing, of this information, by the Settlement Administrator. If Defendants exercise
13 its option to terminate this Settlement, Defendants shall pay all Settlement Administration Costs
14 incurred up to the date of termination. If the option to terminate this Settlement is exercised by
15 Defendants, Defendants shall exercise it by providing written notice to Class Counsel, in
16 conformity with Paragraph 3.35 herein.

17 3.16 Settlement Administration Costs. The Settlement Administrator shall be paid for
18 the costs of administration of the Settlement from the Maximum Settlement Amount. Such costs
19 of administration are estimated not to exceed Seven Thousand Dollars (7,000.00). No fewer than
20 twenty-one (21) calendar days prior to the Final Approval Hearing, the Settlement Administrator
21 shall provide the Parties with a statement detailing the costs of administration. The Settlement
22 Administrator, on Defendants' behalf, shall have the authority and obligation to make payments,
23 credits, and disbursements, including payments and credits in the manner set forth herein, to
24 Settlement Class Members and PAGA Members calculated in accordance with the methodology
25 set out in this Agreement and orders of the Court. The Parties agree to cooperate in the Settlement
26 administration process and to make all reasonable efforts to control and minimize the cost and
27 expenses incurred in administration of the Settlement. The Parties each represent they do not have
28 any financial interest in the Settlement Administrator or otherwise have a relationship with the

1 Settlement Administrator that could create a conflict of interest. The Settlement Administrator
2 shall be responsible for: processing and mailing payments to Plaintiff, Class Counsel, Class
3 Members, PAGA Members, and the LWDA; printing and mailing the Class Notice to the Class
4 Members as directed by the Court; receiving and reporting the Requests for Exclusion, Disputes,
5 or Notices of Objection submitted by Class Members (including providing weekly status reports);
6 providing declaration(s) as necessary in support of preliminary and/or final approval of this
7 Settlement; payment of all applicable payroll taxes and withholding and reporting of such
8 payments; and other tasks as the Parties mutually agree or the Court orders the Settlement
9 Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of
10 the performance of all Settlement Administrator responsibilities. Any legally-mandated tax reports,
11 tax forms, tax filings, or other tax documents required by administration of this Agreement shall be
12 prepared by the Settlement Administrator. Any expenses incurred in connection with such
13 preparation shall be a cost of administration of the Settlement. The Settlement Administrator shall
14 be paid the Settlement Administration Costs within thirty (30) calendar days after the Effective
15 Date.

16 3.17 Final Approval Hearing. At a reasonable time following the Response Deadline,
17 the Court shall hold the Final Approval Hearing, where objections, if any, may be heard, and the
18 Court shall determine amounts properly payable for (i) the Class Counsel Award and Class
19 Counsel Costs, (ii) the Enhancement Award, (iii) the PAGA Payment, and (iv) the Settlement
20 Administration Costs. The Court will hear from any Class Member who attends the Final
21 Approval Hearing and asks to speak regardless of whether the Class Member complied with the
22 Objection procedures in section 3.7.

23 3.18 Entry of Judgment. If the Court approves this Settlement at the Final Approval
24 Hearing, the Parties shall request that the Court enter judgment, with the Court retaining jurisdiction
25 over the Parties to enforce the terms of the judgment, pursuant to California Rules of Court rule
26 3.769. To provide notice of judgment to the Class, the Settlement Administrator will post the
27 Court's Final Approval Order and Judgment on its website for sixty (60) calendar days after the
28

1 date of entry of the Final Approval Order and Judgment, and no individualized notice will be
2 required.

3 3.19 Nullification of Settlement Agreement. In the event: (i) the Court does not enter the
4 Preliminary Approval Order as provided herein; (ii) the Court does not grant final approval of the
5 Settlement as provided herein; (iii) the Court does not enter a Final Approval Order and Judgment
6 as provided herein; or (iv) the Settlement does not become final for any other reason, this Settlement
7 Agreement shall be null and void and any order or judgment entered by the Court in furtherance of
8 this Settlement shall be treated as void from the beginning. However, notwithstanding the
9 foregoing, the Parties will cooperate to obtain a Preliminary Approval Order and Final Approval
10 Order from the Court. In such a case, the Parties and any funds to be awarded under this Settlement
11 shall be returned to their respective statuses as of the date and time immediately prior to the
12 execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had
13 not been executed, except that any fees already incurred by the Settlement Administrator shall be
14 paid by the Parties in equal shares. In the event an appeal is filed from the Court's Final Approval
15 Order and Judgment, or any other appellate review in this action is sought, administration of the
16 Settlement shall be stayed pending final resolution of the appeal or other appellate review.

17 3.20 No Admission by Defendants. Defendants deny any and all claims alleged in this
18 Lawsuit and denies all wrongdoing whatsoever. This Agreement is not a concession or admission
19 and shall not be used against Defendants as an admission or indication with respect to any claim of
20 any fault, concession, or omission by Defendants.

21 3.21 Dispute Resolution. Except as otherwise set forth herein, all disputes concerning
22 the interpretation, calculation of payment of settlement claims, or other disputes regarding
23 compliance with this Agreement shall be resolved as follows:

24 3.21.1 If Plaintiff or Class Counsel, on behalf of Plaintiff or any Settlement Class
25 Members and/or PAGA Member, or Defendants at any time believe that the other Party has
26 breached or acted contrary to the Agreement, that party shall notify the other party in writing of the
27 alleged violation.
28

1 3.21.2 Upon receiving notice of the alleged violation or dispute, the responding
2 party shall have ten (10) business days to correct the alleged violation and/or respond to the
3 initiating party with the reasons why the Party disputes all or part of the allegation.

4 3.21.3 If the response does not address the alleged violation to the initiating party's
5 satisfaction, the Parties shall negotiate in good faith for up to ten (10) business days to resolve their
6 differences.

7 3.21.4 If thereafter the Parties still cannot resolve the dispute, the parties shall
8 utilize the services of Paul Grossman, Esq., in a good-faith attempt to mediate and resolve the
9 dispute, with the expense of the mediator to be shared equally by the Parties. If Mr. Grossman is
10 not available to mediate the dispute, and the Parties do not agree to a different mediator, or either
11 Party desires to forego mediation of the dispute, the dispute may be submitted directly to the Court
12 as set forth in Paragraph 3.21.5.

13 3.21.5 If the Parties are thereafter still unable to resolve their differences after
14 twenty (20) business days, either Party may file a motion with the Court, including and not limited
15 to, pursuant to California Rules of Court rule 3.769 and/or California Civil Procedure Code section
16 664.6.

17 3.22 Exhibits and Headings. The terms of this Agreement include the terms set forth in
18 the attached Exhibit, which are incorporated by this reference as though fully set forth herein. The
19 Exhibit to this Agreement is an integral part of the Settlement. The descriptive headings of any
20 paragraphs or sections of this Agreement are inserted for convenience of reference only and do not
21 constitute a part of this Agreement.

22 3.23 Interim Stay of Proceedings. The Parties agree to stay all proceedings in the
23 Lawsuit, subject to necessary compliance with the Court's orders, except such proceedings
24 necessary to implement and complete the Settlement, in abeyance pending the Final Approval
25 Hearing to be conducted by the Court.

26 3.24 Amendment or Modification. This Agreement may be amended or modified only
27 by a written instrument signed by counsel for all Parties or their successors-in-interest and approved
28 by the Court.

1 3.25 Entire Agreement. This Agreement and attached Exhibits constitute the entire
2 Agreement among the Parties, and no oral or written representations, warranties, or inducements
3 have been made to any Party concerning this Agreement or its Exhibits other than the
4 representations, warranties, and covenants contained and memorialized in the Agreement and its
5 Exhibits.

6 3.26 Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
7 and represent they are expressly authorized by the Parties whom they represent to negotiate this
8 Agreement and to take all appropriate actions required or permitted to be taken by such Parties
9 pursuant to this Agreement to effectuate its terms and to execute any other documents required to
10 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other
11 and use their best efforts to effect the implementation of the Settlement. In the event the Parties
12 are unable to reach agreement on the form or content of any document needed to implement the
13 Settlement, or on any supplemental provisions that may become necessary to effectuate the terms
14 of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.
15 The persons signing this Agreement on behalf of Defendant represent and warrant that they are
16 authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that he
17 is authorized to sign this Agreement and that he has not assigned any claim, or part of a claim,
18 covered by this Settlement to a third party.

19 3.27 Binding Nature of Agreement. This Agreement shall be binding upon, and inure to
20 the benefit of, the successors, heirs, assigns, and third-party beneficiaries of the Parties hereto, as
21 previously defined. To the extent permitted by law, the PAGA Members and Settlement Class
22 Members shall also be bound by this Agreement and any judgment relating thereto.

23 3.28 California Law Governs. All terms of this Agreement and the Exhibit hereto shall
24 be governed by and interpreted according to the laws of the State of California.

25 3.29 This Settlement is Fair, Adequate, and Reasonable. The Parties believe and stipulate
26 that this Settlement is a fair, adequate, and reasonable settlement of this Lawsuit and have arrived
27 at this Settlement after extensive, arm's-length, non-collusive negotiations, taking into account all
28 relevant factors, present and potential.

1 3.30 Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction
2 with respect to the interpretation, implementation, and enforcement of the terms of this Agreement
3 and all orders and judgments entered in connection therewith, and the Parties and their counsel
4 hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and
5 enforcing the Settlement embodied in this Agreement and all orders and judgments entered in
6 connection therewith.

7 3.31 Invalidity of Any Provision. Before declaring any provision of this Agreement
8 invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible
9 consistent with applicable precedents so as to define all provisions of this Agreement valid and
10 enforceable.

11 3.32 No Right to Terminate Based on Reduction of Class Counsel Award or Class
12 Counsel Costs. The Parties agree that any reduction in the Class Counsel Award and Class Counsel
13 Costs shall not constitute grounds to terminate or void the Settlement or otherwise increase the
14 maximum amount payable by Defendants under this Agreement, which shall not exceed the
15 Maximum Settlement Amount defined herein.

16 3.33 Cooperation. The Parties agree to cooperate fully with one another to accomplish
17 and implement the terms of this Settlement. Such cooperation shall include, but not be limited to,
18 execution of such other documents and taking of such other actions as may be reasonably necessary
19 to timely fulfill the terms and approval by the Court of this Settlement. The Parties to this
20 Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any
21 other efforts that may become necessary by Court order or otherwise, to effectuate this Settlement
22 and the terms set forth herein.

23 3.34 Publicity. Plaintiff and Class Counsel agree that they will not issue (before the date
24 of the filing of the motion for preliminary approval of this Settlement) any press releases, initiate
25 any contact with the press, respond to any press inquiry, post any new material on any internet
26 websites, or have any communication with the press about the Lawsuit, and/or the fact, amount, or
27 terms of the Settlement. Before the date of the filing of the motion for preliminary approval of the
28 Settlement, Plaintiff and Class Counsel will not initiate any contact with the Class Members or

1 anyone else about the Settlement, except that: (a) Class Counsel, if contacted by a Class Member,
2 may respond that a settlement has been reached and that the details will be communicated in a
3 forthcoming Court-approved notice; and (b) Plaintiff, if contacted by a Settlement Class Member
4 or PAGA Member, may respond only that the Settlement Class Member or PAGA Member should
5 contact Class Counsel. Nothing in this paragraph shall prevent Class Counsel and Plaintiff from
6 undertaking all required submissions to the LWDA as required by the PAGA statute in connection
7 with this Settlement. Class Counsel and Plaintiff will also provide Defendant's Counsel with a
8 copy of the papers submitted to the LWDA, either prior to or on the same day as the submission to
9 the LWDA.

10 3.35 Notices. Unless otherwise specifically provided, all notices, demands, or other
11 communications in connection with this Agreement shall be: (1) in writing; (2) deemed given on
12 the third business day after mailing; and (3) sent via United States registered or certified mail, return
13 receipt requested, addressed as follows:

14 To Plaintiff:

15 **LAW OFFICES OF BUCHSBAUM & HAAG, LLP**

16 Brent S. Buchsbaum, Esq.
17 Lauren N. Haag, Esq.
18 100 Oceangate, Suite 1200
Long Beach, California 90802

19 **GATEWAY PACIFIC LAW GROUP, PC**

20 Roger E. Haag, Esq.
111 W. Ocean Blvd. Suite 472
Long Beach, CA 90802

To Defendant:

LIGHTGABLER

Jonathan Fraser Light, Esq.
Jamie N. Stein, Esq.
Brier Miron Setlur
760 Paseo Camarillo, Suite 300
Camarillo, California 93010

21 3.36 Execution by Class Members. It is agreed that it is impossible or impractical to have
22 each Class Member and PAGA Member execute this Settlement Agreement. The Notice of
23 Settlement will advise all Class Members and PAGA Members of the binding nature of the
24 Released Class Claims as to Settlement Class Members and Released PAGA Claims as to Class
25 Members and PAGA Members, and such shall have the same force and effect as if each Class
26 Member and PAGA Member executed this Agreement.

27 3.37 Execution by Plaintiff. Plaintiff, by signing this Stipulation, is bound by the terms
28 herein.

1 3.38 Drafting of the Agreement. The Parties hereto agree that the terms and conditions
2 of this Stipulation of Settlement are the result of lengthy, intensive, arm's-length, non-collusive
3 negotiations and a neutrally-facilitated mediation between the Parties, and that this Agreement shall
4 not be construed in favor of or against any of the Parties by reason of their participation in the
5 drafting of this Agreement.

6 3.39 Counterparts. This Agreement shall become effective upon its execution by all of
7 the undersigned. Plaintiff, Class Counsel, Defendant, and Defense Counsel may execute this
8 Stipulation in counterparts, and execution of counterparts shall have the same force and effect as if
9 each had signed the same instrument. Copies of the executed Agreement, including scans or PDF
10 versions, shall be effective for all purposes as though the signatures contained therein were original
11 signatures.

12 **STIPULATED, AGREED, AND ACCEPTED.**

13
14 Date: 07/06/22

15 **PLAINTIFF JORGE AVALOS**

16 Print Name: Jorge Avalos

17 Signature: [Signature]

18
19 **DEFENDANT UNVARNISHED, INC.**

20
21 Date: 07/28/2022

22 Print Name: Scott Gillen

23 Title: President

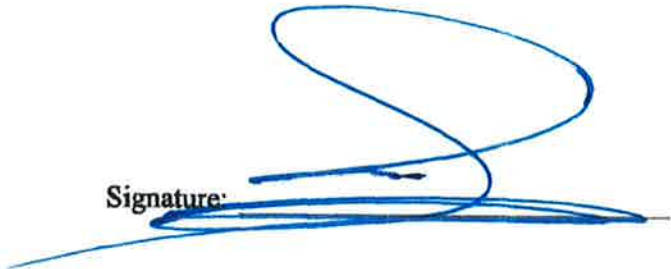
24 Signature: [Signature]

25 **DEFENDANT 600 SPRING, LLC**

26 Date: 07/28/2022

27 Print Name: Scott Gillen

28 Title: Managing Member

Signature: 

DEFENDANT SCOTT GILLEN

Date: 07/28/2022

Print Name: Scott Gillen

Title: 

Signature: 

APPROVED AS TO FORM AND CONTENT

LAW OFFICES OF BUCHSBAUM & HAAG, LLP
Counsel for Plaintiff

Date:

Print Name: Brent S. Buchsbaum

Signature: /S/ Brent S. Buchsbaum

GATEWAY PACIFIC LAW GROUP, PC
Counsel for Plaintiff

Date: 03/02/2022

Print Name: Roger E. Haag

Signature: /S/ Roger E. Haag

LIGHTGABLER
Counsel for Defendant

Date: 8/4/2022

Print Name: Brier Miron Setlur

Signature: 