

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Rabih Mustapha, individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Palm Springs Motors, Inc. (hereinafter “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Sean M. Blakely, and Neil M. Larsen of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Quynhvi (Vee) B. Sotelo, Katelyn K. Empey, and Ryan A. Quadrel of Slovak Baron Empey Murphy & Pinkey, LLP.

On August 4, 2020, Plaintiff filed a Representative Action Complaint in Riverside County Superior Court, Case No. RIC2003035, for civil penalties under the Labor Code Private Attorneys General Act, Cal. Labor Code § 2698 (“PAGA”). On August 6, 2021, Plaintiff filed the operative First Amended Class and Representative Action Complaint (“FAC”) which alleges the following causes of action: (1) minimum wage violations; (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) wage statement violations; (6) failure to reimburse necessary business expenses; (7) waiting time penalties; (8) unfair competition; and (9) civil penalties under the PAGA. The Complaint and the FAC are collectively referred to as the “Action.”

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class or Class Member(s).** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All individuals employed by Defendant Palm Springs Motors, Inc. as commission paid employees in California who worked at any time from May 27, 2019 through the date of the Court Order granting preliminary approval of the Settlement (“Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Release by Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Defendant, and all of their past and present officers, directors, employees, and agents (collectively, the “Released Parties”), as follows:

A. Class Members will release all claims, causes of action, and legal theories alleged in the FAC, or those that could have been alleged based on the facts alleged in the FAC, including: (1) failure to pay all minimum wages; (2) failure to pay all overtime wages; (3) failure to provide all meal periods; (4) failure to separately pay

for rest periods; (5) failure to furnish accurate, itemized wage statements; (6) failure to reimburse necessary business expenses; (7) failure to pay timely pay all wages owed upon separation of employment; and (8) all claims for unfair business practices that were premised on the facts, claims, causes of action or legal theories of relief pled in the FAC (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period.

- B. Plaintiff releases all claims for statutory penalties against the Released Parties that could have been sought by the Labor Commissioner for the violations identified in Plaintiff’s May 27, 2020 pre-filing PAGA letter to the Labor & Workforce Development Agency (“LWDA”). Plaintiff does not release any aggrieved employee’s claim for wages or damages.
- C. In light of Plaintiff’s Class Representative Enhancement Payment, Plaintiff has agreed to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

However, to the extent that Plaintiff has claims that cannot be released as a matter of law (i.e., workers’ compensation claims), then those claims will not be released.

- 3. **Gross Settlement Amount.** As consideration, Defendant has agreed to pay a non-reversionary Gross Settlement Amount (“GSA”) of Two Hundred Twenty-Five Thousand Dollars and Zero Cents (\$225,000.00) in full and complete settlement of the Action, as follows:
 - A. The Parties have agreed to engage Phoenix Settlement Administrators, as the “Settlement Administrator” to administer this Settlement.
 - B. If no objections are filed, the GSA shall be deposited with the Settlement Administrator within thirty (30) calendar days after the Court enters an order granting final approval of the Settlement. Solely in the event that there are any objections to the Settlement (the filing of an objection being a prerequisite to the filing of an appeal), the GSA shall be deposited with the Settlement Administrator within the later of: (i) thirty (30) days after the last date on which any appeal might be filed, with no appeal having been filed, or (ii) thirty (30) days after the resolution of any appeal(s), presuming that the appeal upholds the Settlement.

C. This is a non-reversionary settlement. The Gross Settlement Amount includes:

- (1) All payments (including interest) to the Settlement Class;
- (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Seven Thousand Dollars and Zero Cents (\$7,000.00). If the actual costs exceed Seven Thousand Dollars (\$7,000.00), the additional costs shall be deducted from the Gross Settlement Amount. If the actual costs are less than Seven Thousand Dollars (\$7,000.00), the difference will revert to the participating Class Members;
- (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Class Representative Enhancement Payment in recognition of his contributions to the Action and his service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payment, Plaintiff shall not have the right to revoke this settlement, and it will remain binding. Any amount reduced and/or not approved by the Court will revert to the participating Class Members;
- (4) Up to one-third of the Gross Settlement Amount in Class Counsel's attorneys' fees, plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Fifteen Thousand Dollars and Zero Cents (\$15,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke this settlement, and it will remain binding. Any amount reduced and/or not approved by the Court will revert to the participating Class Members; and
- (5) Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Eighteen Thousand Seven Hundred Fifty Dollars and Zero Cents (\$18,750.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Six Thousand Two Hundred Fifty Dollars and Zero Cents (\$6,250.00), will be payable to the Settlement Class as the "PAGA Amount."

D. Defendant's share of employer-side payroll taxes shall be paid by Defendant separately, and in addition to, the Gross Settlement Amount.

E. **Escalator Clause.** Defendant represents there are approximately 811 pay periods worked by Class Members during the Class Period. If, at the time of preliminary approval, the number of pay periods has increased by 15% or more (i.e., if there are 932 pay periods or more), then Defendant shall increase the Gross Settlement Amount in proportion to the increase in pay periods (e.g., if the actual number of

pay periods is 18% greater than 811 pay periods, Defendant would increase the Gross Settlement Amount by 18%).

4. **Payments to the Settlement Class.** Class Members are not required to submit a claim form to receive a payment (“Settlement Award”) from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, Plaintiff’s Class Representative Enhancement Payment, the amount designated as PAGA civil penalties, and the Settlement Administrator’s fees and expenses for administration. The remaining amount shall be known as the “Net Settlement Amount.”
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Class Member’s Settlement Award based on the following formula:
 - i. Payments to participating Class Members: Ninety percent (90%) of the Net Settlement Amount will be distributed to all participating Class Members based on each participating Class Member’s proportionate pay periods worked during the Class Period, and will be determined by multiplying 90% of the Net Settlement Amount by a fraction, the numerator of which is the participating Class Member’s number of pay periods worked during the Class Period, and the denominator of which is the total pay periods worked by all participating Class Members during the Class Period.
 - ii. Waiting Time Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” Each participating Class Member whose employment with Defendant ended at any time during the Class Period shall receive an equal, pro-rata share of the Waiting Time Amount.
 - iii. PAGA Amount: In addition to the Net Settlement Amount, each Class Member who was employed by Defendant during the Class Period (including those Class Members who submit a valid and timely Request for Exclusion from the class action settlement) shall receive a portion of the Six Thousand Two Hundred Fifty Dollars and Zero Cents (\$6,250.00) amount designated as the “PAGA Amount” and shall be paid based on the proportionate number of pay periods that he or she worked during the Class Period.
- C. Within five (5) business days after the Court enters the final approval order, the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by Defendant pursuant to the terms of the Settlement, including the amount of the employer contribution for payroll taxes to be paid by Defendant. Within ten (10) calendar days following Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement

Administrator will calculate Settlement Award amounts and provide the same to counsel for review and approval. Within seven (7) calendar days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to Class Members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel.

- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: any payment made from the PAGA Amount shall be treated as 100% penalties. Any payment made from the Net Settlement Amount shall be allocated as one-third (1/3) as wages, one-third (1/3) as penalties, and one-third (1/3) as interest. The Settlement Administrator will be responsible for issuing to participating Class Members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay, or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- E. Each Class Member who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Class Members whose checks were not cashed within 180 days after mailing shall be redistributed to those Class Members who have cashed their checks.
- F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00), from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award awarded by the Court.

6. **Class Representative Enhancement Payment** Defendant will not object to a request for a Class Representative Enhancement Payment of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for his time and risk in prosecuting this case, and his service to the Settlement Class. This award will be in addition to Plaintiff's Settlement Award as a Class Member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. Even in the

event that the Court reduces or does not approve the requested enhancement payment, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.

7. **Settlement Administrator.** Defendant will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff's seeking permission to pay up to Seven Thousand Dollars and Zero Cents (\$7,000.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices, calculating Settlement Awards, preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all Class Members. The Settlement Administrator shall also give notice of final judgment by posting the final judgment to its website.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines, Sean M. Blakely, and Neil M. Larsen of Haines Law Group, APC as Class Counsel;
- C. Appointing Rabih Mustapha as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as the Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, Request for Exclusion Form, and Objection Form), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment, and the number of pay periods worked by each Class Member while employed during the Class Period (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall: (i) run the names of all Class Members through the National

Change of Address ("NCOA") database to determine any updated addresses for Class Members; (ii) update the address of any Class Member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Class Member; and (iv) mail a Notice Packet to each Class Member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.

- C. Requests for Exclusion. Any Class Member who wishes to opt out of the settlement must complete and mail a Request for Exclusion Form (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
- i. The Notice Packet shall state that a Class Member who wishes to exclude themselves from the class action settlement must submit a Request for Exclusion Form by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, and telephone number of the Class Member; (2) contain a statement that the Class Member wishes to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except that a Request for Exclusion not containing a Class Member's telephone number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon. However, Class Members who submit a valid and timely Request for Exclusion from the class action settlement shall still be entitled to their portion of the PAGA Amount described above.
- D. Objections. Class Members who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any objection should: (1) contain the objecting Class Member's full name and current address, as well as contact information for any attorney representing the objecting Class Member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline.

- E. Notice of Settlement Award / Disputes. Each Notice Packet mailed to a Class Member shall disclose the amount of the Class Member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award, including the Class Member's number of pay periods worked during the Class Period, and whether the Class Member's employment with Defendant ended at any time during the Class Period. Class Members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice Packet, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Class Member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Class Member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member. Class Members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, an Objection, or a dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Class Member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's counsel to provide notice of the proposed settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Enhancement Payment, LWDA payment, and settlement administration costs; and

- C. Entering judgment pursuant to California Rule of Court 3.769. Said judgment shall be posted on the Settlement Administrator's website.

11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Class Members, as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein, or unless otherwise ordered by the Court. Class Counsel shall not report this Settlement in any medium or in any publication, shall not post or report anything regarding Plaintiff's claims on Class Counsel's website, and shall not contact any reporters or media regarding the Settlement. Class Counsel are authorized to make a limited disclosure for the purpose of obtaining approval of the Settlement. For the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. Plaintiff and Class Counsel are not permitted to disseminate or publish, distribute, or discuss the information provided to the Court in the filings for approval of settlement outside the filings themselves, and any hearing held on those filings, unless ordered by the Court.

13. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

14. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Quynhvi (Vee) B. Sotelo, Slovak Baron Empey Murphy & Pinkney, LLP, 1800 E. Tahquitz Canyon Way, Palm Springs, California 92262; sotelo@sbemp.com

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Ste 180, El Segundo, California 90245; phaines@haineslawgroup.com.

15. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

16. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

17. **Enforcement and Continuing Jurisdiction of the Court.** This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of California, without regard to principles of conflicts of law otherwise applicable to such determination. This Agreement is enforceable pursuant to California Code of Civil Procedure Section 664.6.

DATED: 12/29/2021

Palms Springs Motors, Inc.

By: 
Its: PRESIDENT

DATED:

Rabih Mustapha

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: 12/29/2021

SLOVAK BARON EMPEY MURPHY &
PINKNEY

By: 
Quynhvi (Vee) B. Sotelo
Attorneys for Defendant

DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

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DATED: Palms Springs Motors, Inc.

By: _____
Its: _____

DATED: Jan 4, 2022

Rabih Mustapha

By:  _____
Rabih Mustapha (Jan 4, 2022 19:59 PST)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: SLOVAK BARON EMPEY MURPHY &
PINKNEY

By: _____
Quynhvi (Vee) B. Sotelo
Attorneys for Defendant

DATED: January 5, 2021

HAINES LAW GROUP, APC

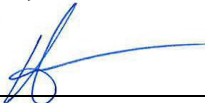
By:   _____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

EXHIBIT 1

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

Rabih Mustapha v. Palm Springs Motors, Inc.

Riverside County Superior Court

Case No.: RIC2003035

To: All individuals employed by Palm Springs Motors, Inc., as commission paid employees in California who worked at any time from May 27, 2019 through <<PRELIM APPROVAL DATE>>.

**PLEASE READ CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this Notice?

The Court has granted preliminary approval of a proposed settlement (the "Settlement") in the matter of *Rabih Mustapha v. Palm Springs Motors, Inc.*, Riverside County Superior Court Case No. RIC2003035 (the "Action"). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. Defendant Palm Springs Motors, Inc.'s (hereinafter "Defendant") records show that you were employed by Defendant as a commission paid employee in California between May 27, 2019 and <<PRELIM APPROVAL DATE>> (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Rabih Mustapha ("Plaintiff") brought this Action against Defendant, seeking to assert claims on behalf of a class of all current and former commission paid employees who worked for Defendant in California during the Class Period. Plaintiff is known as the "Class Representative," and his attorneys, who also represent the interests of all Class Members, are known as "Class Counsel."

In the Action, Plaintiff alleges that Defendant: (1) failed to pay all minimum wages; (2) failed to pay all overtime wages; (3) failed to provide all meal periods; (4) failed to separately pay for rest periods; (5) failed to furnish accurate, itemized wage statements; (6) failed to reimburse necessary business expenses; (7) failed to pay timely pay all wages owed upon separation of employment; (8) engaged in unfair, unlawful business practices; and (9) is liable for civil penalties under the Private Attorneys' General Act ("PAGA").

A PAGA action is a form of representative action that allows employee plaintiffs to act on behalf of the government as agents of the state's labor law enforcement agencies. By acting as a private attorney general, an "aggrieved employee" who has been affected by at least one Labor Code violation committed by their employer can use a PAGA action as a means to collect civil penalties for those violations. 75% of any collected penalties go to the state's Labor and Workforce Development Agency ("LWDA"), and the remaining 25% of penalties are distributed evenly among all aggrieved employees.

Defendant denies that it has done anything wrong. Defendant also denies that it owes Class Members any wages, restitution, penalties, damages, or other amounts. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. The Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate and reasonable. Any final determination of whether the proposed Settlement is fair, adequate, and reasonable will be made at the Final Approval Hearing. However, to avoid additional expense, inconvenience, and interference with its business operations, Defendant has

concluded that it is in its best interests to settle the Action on the terms summarized in this Notice. After Defendant provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the inherent risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by Defendant, your decision about whether to participate in the Settlement will not affect your employment. California law and Defendant's policy strictly prohibit unlawful retaliation. Defendant will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Class Member because of his/her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff/Settlement Class: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com Neil M. Larsen nlarsen@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Defendant: SLOVAK BARON EMPEY MURPHY & PINKNEY LLP Quynhvi (Vee) B. Sotelo sotelo@sbemp.com 1800 E. Tahquitz Canyon Way Palm Springs, California 92262 Tel: (760) 322-2275 Fax: (760) 322-2107 sbemp.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former commission paid employees who worked for Defendant in California during the time period of May 27, 2019 through <<PRELIM APPROVAL DATE>>. Class Members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendant as described below.

Defendant has agreed to pay \$225,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Action, including payments to Class Members, Class Counsel's attorneys' fees and expenses, Settlement administration costs, payment to the LWDA, and the Class Representative's Enhancement Payment.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross Settlement Amount. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for up to one-third of the Gross Settlement Amount, which is currently estimated at \$75,000.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$15,000.00 in verified costs incurred in connection with the Action.

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the

Settlement. The Court has approved setting aside up to \$7,000.00 from the Gross Settlement Amount to pay the settlement administration costs.

Class Representative Enhancement Payment. Class Counsel will ask the Court to award the Class Representative an enhancement payment in the amount of \$5,000.00 to compensate him for his service and extra work provided on behalf of Class Members.

PAGA Payment to State of California. The parties have agreed to allocate \$25,000.00 towards the Settlement of the PAGA claims in the Action. \$18,750.00 will be paid to the State of California Labor and Workforce Development Agency ("LWDA"), representing its 75% share of the civil penalties. The remaining \$6,250.00 will be allocated to Class Members as the "PAGA Amount" as described below.

Calculation of Individual Class Members' Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount, which will be distributed to all Class Members who do not submit a valid and timely Request for Exclusion form (described below). The Net Settlement Amount is estimated at approximately \$98,000.

First, 90% of the Net Settlement Amount will be allocated to all participating Class Members in proportion to the number of pay periods that he or she worked during the Class Period. Additionally, 10% of the Net Settlement Amount shall be designated as the "Waiting Time Amount," and will be allocated in equal amounts to all participating Class Members whose employment with Defendants ended during the Class Period. Finally, \$6,250.00 of the Gross Settlement Amount has been designated as the "PAGA Amount." Each Class Member who was employed by Defendant during the Class Period, including those Class Members who exclude themselves from the class action settlement, shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked during the Class Period. Each Class Member who was employed by Defendants during the Class Period is estimated to receive approximately \$130.20 as his/her share of penalties under the PAGA.

Payments to Class Members. If the Court grants final approval of the Settlement, individual Settlement Awards will be mailed to all Class Members who did not submit a valid and timely Request for Exclusion from the Settlement.

Allocation and Taxes. For tax purposes, each Settlement Award shall be allocated as follows: any payment made from the PAGA Amount shall be treated as 100% penalties. Any payment made from the Net Settlement Amount shall be allocated as one-third (1/3) as wages, one-third (1/3) as penalties, and one-third (1/3) as interest. The Settlement Administrator will be responsible for issuing participating Class Members IRS Forms W-2 for the amounts allocated as "wages" and IRS Form 1099 for the amounts allocated as penalties and interest. Any payment made from the PAGA Amount shall be treated as 100% penalties and reported on an IRS Form 1099. Class Members are responsible for the proper income tax treatment of the individual settlement payments. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Defendant Palms Springs Motors, Inc., and its past and present officers, directors, employees, and agents (collectively the "Released Parties") of all claims, causes of action, and legal theories alleged in the First Amended Class and Representative Action Complaint ("FAC"), or those that could have been alleged based on the facts alleged in the FAC, including: (1) failure to pay all minimum wages; (2) failure to pay all overtime wages; (3) failure to provide all meal periods; (4) failure to separately pay for rest periods; (5) failure to furnish accurate, itemized wage statements; (6) failure to reimburse necessary business expenses; (7) failure to pay timely pay all wages owed upon separation of employment; and (8) all claims for unfair business practices that were premised on the facts, claims, causes of action or legal theories of relief pled in the FAC (collectively, the "Released Claims"). The period of the Release shall extend to the limits of the Class Period.

Plaintiff releases all claims for statutory penalties against the Released Parties that could have been sought by the Labor Commissioner for the violations identified in Plaintiff's May 27, 2020 pre-filing PAGA letter to the LWDA. Plaintiff does not release any aggrieved employee's claim for wages or damages.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of pay periods you worked for Defendant during the Class Period, as well as whether you separated employment with Defendant during the Class Period. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of pay periods you worked during the Class Period, and whether you have separated employment from Defendant at any time during the Class Period. The information contained in Defendant's records regarding each of these factors, along with your estimated Settlement Award, is listed below. If you disagree with the information listed below, you may submit a dispute, along with any supporting documentation, to <<INSERT ADMINISTRATOR CONTACT INFO>>. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Settlement Administrator will determine whether any adjustments are warranted, and if so, will consult with the Parties and make any adjustments approved by the Parties.

According to Defendant's records:

- (a) you worked for Defendant in California from [REDACTED] to [REDACTED];
- (b) you worked [REDACTED] pay periods between May 27, 2019, and <<PRELIM APPROVAL DATE>> for Defendant; and
- (c) your employment with Defendants <<DID/DID NOT>> ended between May 27, 2019 and <<PRELIM APPROVAL DATE>>.

Based on the above, your Settlement Award is estimated at \$ [REDACTED]. The lowest Settlement Award to a Class Member is estimated at \$122.22. The highest Settlement Award to a Class Member is estimated at \$4,419.37.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the class action settlement, you may exclude yourself by sending to the Settlement Administrator an executed Request for Exclusion Form no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, and your signature. A Request for Exclusion Form is included with this Notice.

Send the Request for Exclusion Form directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion shall, upon receipt by the Settlement Administrator, no longer be a Class Member, and shall be barred from participating in any portion of the Class Action Settlement. However, you may not opt out of the PAGA Settlement, and you will still be entitled to a portion of the PAGA Amount as described above. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it (with the exception of the PAGA Settlement, which you may not object to), you may mail a written objection to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Your written objection should include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections should be

in writing and must be postmarked on or before <<RESPONSE DEADLINE>>. An Objection Form is included with this Notice.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 6 of the Riverside County Superior Court, located at 4050 Main Street, Riverside, California 92501. You have the right to appear either in person or through your own attorney at this hearing. All objections or other correspondence must state the name and number of the case, which is *Rabih Mustapha v. Palm Springs Motors, Inc.*, Riverside County Superior Court Case No. RIC2003035.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 6 of the Riverside County Superior Court, located at 4050 Main Street, Riverside, California 92501. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Class Representative Enhancement Payment. The Final Approval Hearing may be postponed without further notice to Class Members. **You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing.**

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Riverside County Superior Court, located at 4050 Main Street, Riverside, California 92501, during regular court hours. You may also view the case file online at www.riverside.courts.ca.gov by going to the "Search Court Records" tab, selecting "Civil, Small Claims and Unlawful Detainer Case Information," and entering the case number information. This case is assigned to Department 6 of the Riverside Historic Courthouse, located at 4050 Main Street, Riverside, California 92501. The Settlement Agreement is attached as Exhibit A to the Declaration of Sean M. Blakely In Support of Plaintiff's Motion For Preliminary Approval of Class Action Settlement, filed on January 6, 2022. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

EXHIBIT 2

REQUEST FOR EXCLUSION FORM

Rabih Mustapha v. Palm Springs Motors, Inc.
Riverside County Superior Court
Case No.: RIC2003035

IF YOU DO NOT WISH TO BE PART OF THE CLASS ACTION SETTLEMENT, YOU MUST COMPLETE, SIGN AND MAIL OR DELIVER THIS FORM, POSTMARKED ON OR BEFORE [INSERT DATE], ADDRESSED AS FOLLOWS:

[INSERT SETTLEMENT ADMINISTRATOR]
Rabih Mustapha v. Palm Springs Motors, Inc.
SETTLEMENT ADMINISTRATOR
ADDRESS
ADDRESS
PHONE
FAX

DO NOT SUBMIT THIS FORM IF YOU WISH TO BE PART OF THE CLASS ACTION SETTLEMENT.

By signing, filling out, and returning this form, I confirm that I **do not** want to be included in the Settlement of the lawsuit entitled *Rabih Mustapha v. Palm Springs Motors, Inc.*, Riverside County Superior Court Case No. RIC2003035.

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *RABIH MUSTAPHA V. PALM SPRINGS MOTORS, INC.* LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE MONEY FROM THE CLASS SETTLEMENT OF THIS LAWSUIT. HOWEVER, I STILL WILL BE ENTITLED TO RECEIVE A PORTION OF THE SETTLEMENT OF THE CLAIMS BROUGHT PURSUANT TO THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (“PAGA”) AS DESCRIBED IN THE ACCOMPANYING NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT.

Name

Telephone Number

Address

Date

Signature

EXHIBIT 3

OBJECTION FORM

Rabih Mustapha v. Palm Springs Motors, Inc.
Riverside County Superior Court
Case No.: RIC2003035

All objections must be mailed or delivered directly to the Settlement Administrator, [INSERT SETTLEMENT ADMINISTRATOR], at <<INSERT ADMINISTRATOR CONTACT INFO>> on or before <<RESPONSE DEADLINE>>. All objections must be postmarked or delivered on or before <<RESPONSE DEADLINE>>.

Objecting Class Member Information:

Name

Telephone Number

Address

Date

Signature

Describe the nature and basis of each objection and please attach additional pages if necessary:
