

LEBE LAW, APLC

Jonathan M. Lebe (SBN 284605)

jon@lebelaw.com

Zachary Gershman (SBN 328004)

zachary@lebelaw.com

777 S. Alameda Street, Second Floor

Los Angeles, CA 90021

Telephone: (213) 444-1973

COHELAN KHOURY & SINGER

Michael D. Singer (SBN 115301)

msinger@ckslaw.com

Jeff Geraci (SBN 151519)

jgeraci@ckslaw.com

605 C Street, Suite 200

San Diego, CA 92101

Telephone: (619) 595-3001

Facsimile: (619) 595-3000

Attorneys for Plaintiff Don M. Vasquez, individually and
on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF TULARE

DON M. VASQUEZ, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

SAPUTO CHEESE USA INC., a Delaware
corporation; and DOES 1 through 25,
inclusive

Defendants.

Case No. VCU282978

Consolidated with Case No. VCU283853

ASSIGNED FOR ALL PURPOSES TO:

The Honorable John P. Bianco

Department 2

CLASS ACTION

**DECLARATION OF JEFF GERACI
IN SUPPORT OF UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT**

Hearing: December 4, 2023

Time: 8:30 a.m.

Dept: 2

Judge: Hon. John P. Bianco

Complaint filed: May 27, 2020

Trial date: Not set

1 I, Jeff Geraci, declare as follows:

2 1. I am a Partner with the law firm of Cohelan Khoury & Singer, co-counsel of
3 record for Plaintiff Don M. Vasquez. I make this Declaration in support of Plaintiff's Motion for
4 Preliminary Approval of Class Action Settlement. This Declaration is based on my personal
5 knowledge and if called to testify I could and would competently testify to the matters contained
6 in this Declaration.

7 2. I am a 1990 University of San Diego School of Law graduate, admitted to the
8 California State Bar in 1990. I am admitted to all California state and federal courts. I have
9 provided counseling and representation in all areas of employment law, including wrongful
10 termination, discrimination, harassment, and wage and hour law since 1992. I founded Law
11 Office of Jeff Geraci in 1999 and managed that firm through 2009, when I joined Cohelan
12 Khoury & Singer. I have conducted six jury trials of employment law cases to verdict as sole
13 trial counsel, prevailing in four. My practice has focused solely on litigation of class and
14 representative actions, particularly wage and hour class actions, for the past 12 years. I have
15 drafted amicus letters on a range of issues, primarily for the California Employment Lawyers
16 Association (CELA), supporting publication or depublication of Court of Appeal decisions. I
17 have been primarily responsible for dozens of wage and hour class and PAGA actions, from
18 preparing the complaint, discovery, dispositive motions, settlement, and settlement approval.

19 3. I have acted as lead appellate counsel in a dozen matters, including the published
20 employment cases, *McAlindin v. County of San Diego* (1999) 192 F.3d 1226 (9th Cir. 1999)
21 [reversing summary judgment in a disability discrimination case]; *Vaquero v. Ashley Furniture*
22 *Indus.*, 824 F.3d 1150 (9th Cir. 2016) [affirming class certification for sales associates].

23 4. In 1981, Timothy D. Cohelan and Isam C. Khoury formed Cohelan & Khoury, a
24 Partnership of Professional Law Corporations, and within a few years began to focus on class
25 actions. In 2009, Cohelan & Khoury became Cohelan Khoury & Singer. Our firm represents
26 plaintiffs in complex, class and representative action litigation, including wage and hour, labor
27 and employment, antitrust, consumer protection, construction defect and other public interest
28 type class and representative actions.

1 5. Managing Partner Michael D. Singer was admitted as a fellow to the College of
2 Labor and Employment Attorneys in 2020, and named to the Daily Journal 2012, 2013, and
3 2018 list of Top California Labor and Employment Attorneys. He, along with Isam Khoury, a
4 founding Partner of the firm, and Partner Diana M. Khoury, have also been selected by their
5 peers based on ethics, experience and reputation as Super Lawyers in Civil Litigation by the
6 Southern California Super Lawyers Magazine for the years 2012 through the present.

7 6. Cohelan Khoury & Singer has been certified by the State Bar of California to
8 provide the Mandatory Continuing Legal Education activity entitled “Litigating California Class
9 Actions” and has conducted MCLE certified seminars on this topic. Senior Partner, Timothy D.
10 Cohelan, is the author of Cohelan on California Class Actions (1997-2022, updated annually),
11 part of Thomson Reuters Expert Series updated annually. Michael D. Singer is a contributing
12 author on the CEB publication California Wage and Hour Law: Compliance and Litigation
13 (2010-2022 updated annually), in which he wrote the opening chapter overview on California
14 Wage and Hour laws, including the public policy underpinnings for those laws, and the Private
15 Attorneys General Act (PAGA) Claim chapter. He is also a contributing author to the CEB
16 Practitioner (2020), including guidelines for oral argument and forms for PAGA litigation. Mr.
17 Singer has served as a columnist for the California State Bar, Litigation Section on wage and
18 hour litigation and has contributed articles on wage and hour and class action issues through the
19 years to numerous California publications. Prior to COVID, he typically lectured several times
20 per year for continuing education courses on wage and hour and class action issues at events in
21 San Diego, Orange County, Los Angeles, and San Francisco. For over twelve years, Mr. Singer
22 has served as wage and hour amicus co-chair and liaison for the California Employment
23 Lawyers Association, drafting, reviewing, and coordinating amicus filings on wage and hour
24 issues in the California Supreme Court and Courts of Appeal. He has been engaged in the
25 practice of labor and employment law since 2000, handling well over 300 wage and hour class
26 and PAGA actions and several individual labor cases. He has litigated several types of
27 employment actions, including complex ERISA employee welfare benefit plan cases, as well as
28 wage and hour class actions before Federal and State Courts in California. In 2014, Mr. Singer,

1 along with Former Partner J. Jason Hill, tried a wage and hour class action involving claims for
2 illegally deducted wages and unreimbursed expenses. *Dilts v Penske Logistics LLC, Inc.*
3 Mr. Singer successfully appealed the trial court ruling in *Dilts* finding state laws preempted by
4 the FAAAA for truck drivers.

5 7. Mr. Singer has participated in over 50 appellate cases and argued writs and
6 appeals before several California District Courts of Appeal, arguing for plaintiffs on rehearing
7 in *Brinker International Inc. v. Superior Court* before the Fourth District Court of Appeal, as
8 well as federal appeals in the Second, Third, and Ninth Circuit Courts of Appeals. In addition,
9 Mr. Singer has drafted numerous appellate briefs as the appellant, respondent, or amicus curiae
10 in employment class and individual actions. As co-Class Counsel in *Brinker Restaurant Corp. v.*
11 *Superior Court* [formerly reported at (2008)165 Cal.App.4th 25], Mr. Singer argued before the
12 Fourth District Court of Appeal in May 2008 on transfer from the California Supreme Court,
13 and co-authored the successful Petition for Review. My firm has successfully tried class cases,
14 obtained appellate reversals of class certification denials (*Hicks v. Kaufman and Broad*, (2001)
15 89 Cal.App.4th 908), and certified multiple wage and hour classes.

16 8. As a part of our overall firm philosophy lawyers perform community service and
17 pro bono work. Firm volunteer work includes service through the Legal Aid at Work, San Diego
18 Volunteer Lawyer Program, the San Diego County Bar Foundation and Consumer Attorneys of
19 San Diego. During law school, I interned for the ACLU and Equal Rights Assistance assisting
20 on impact litigation class action lawsuits. I am a past recipient of the Wiley W. Manuel Award
21 for Pro Bono Service. Mr. Singer has served on the Legal Aid at Work Board of Directors since
22 2011. Mr. Cohelan served as the Chair of the San Diego Volunteer Lawyers Program from
23 2015-2018, and currently sits on the Board as past Chair. He served 24 years as a Judge Pro
24 Tem of the San Diego Superior Court. Since admission to the California Bar, Partner Diana M.
25 Khoury has been a member of the San Diego County Bar Association, Consumer Attorneys of
26 San Diego, Consumer Attorneys of California, and American Association for Justice serving
27 and chairing various committees through the years for these organizations. From 2010 through
28 2015, Ms. Khoury served on the Board of Directors for Consumer Attorneys of San Diego.

1 Since 2013, Ms. Khoury serves on the Board of Directors for the San Diego County Bar
2 Foundation, the 501(c)(3) charitable arm of the San Diego County Bar providing access to
3 justice to the underserved and impoverished in the San Diego County region. Our firm's pro
4 bono victories include a settlement which prohibits the City of San Diego from targeting
5 homeless people for illegal lodging tickets under Penal Code Section 467(j). (*Spencer v. City of*
6 *San Diego*, USDC Case No 04CV-2314 BEN (WMC).) The *Spencer* settlement had the effect
7 of increasing the number of available shelter beds in San Diego.

8 9. Cohelan Khoury & Singer has been certified Class Counsel in the following
9 contested proceedings: *Aguilar v. Atlantic Richfield, et al.*, San Diego County Superior Court
10 Case No. 00700810; *Andino v. Kaiser Foundation Hospitals*, Alameda County Superior Court
11 Case No. RG11580548; *Arellano, et al. v. Container Connection of Southern California, Inc.*,
12 Los Angeles County Superior Court Case No. BC500675; *BANK OF AMERICA WAGE AND*
13 *HOURLY EMPLOYMENT PRACTICES LITIGATION*, United States District Court, District of
14 Kansas MDL Case No. 2138 (FLSA Condition Certification); *Czuchaj v. Conair Corporation*,
15 United States District Court, Southern District of California Case No. 13CV1901; *Dilts, et al. v.*
16 *Penske Logistics, L.L.C., et al.*, United States District Court, Southern District of California
17 Case No. 08CV0318; *Englert, et al. v. AT&T Wireless Services, Inc., et al.*, Circuit Court of the
18 Second Circuit, State of Hawaii Case No. 02-1-0074; *Evans v. Washington Mutual Bank*,
19 Orange County Superior Court Case No. 02CC15415; *Filion v. Ethan Allen Retail Inc.*, United
20 States District Court, Southern District of California Case No. 05CV2340; *Gerard v. Les*
21 *Schwab Tire Centers of California, Inc.*, Sacramento County Superior Court Case No. 2007-
22 300000003; *Grana, et al. v. PICO Enterprises, Inc. dba Phyle Inventory Control Specialist and*
23 *PICS L.A.S.C.* Case No. BC472891; *Gutierrez v. Save Mart Supermarkets San Mateo Superior*
24 *Case No. CIV530955; Wilcox v Albertsons*, San Diego County Superior Court Case No.
25 GIC833922; *Gonzalez, et al. v. Freedom Communications, Inc. d/b/a The Orange County*
26 *Register*, Orange County Superior Court Case No. 03CC08756; *Graham, et al. v. Overland*
27 *Solutions, Inc.*, United States District Court, Southern District of California Case No.
28 10CV0672 (FLSA Conditional Certification); *Hicks v. Kaufman and Broad Home Corp.*, Los

Angeles County Superior Court Case No. B198414; *Hohnbaum, et al. v. Brinker Restaurant Corporation, et al.*, San Diego County Superior Court Case No. GIC834348; *KEMP, et al. v. CSEA, et al.*, Circuit Court of the First Circuit, State of Hawaii Case No. 98-3815-08; *LIBERTY MUTUAL OVERTIME CASES*, Los Angeles County Superior Court Case No. JCCP 4234; *Mitchell, et al. v. Acosta, Inc., dba Acosta Sales and Marketing Company*, United States District Court, Central District of California Case No.11CV07196 (FLSA Conditional Certification); *Santana v. Rady Children's Hospital-San Diego*, San Diego County Superior Court Case No. 37-2014-00022411; *Schaffer v. Rady Children's Hospital-San Diego*, San Diego County Superior Court Case No. 337-2015-00022978; *Schneider, et al. v. Catholic Healthcare West*, San Francisco County Superior Court Case No. CGC-10-506243; *Salucci v. Amada Senior Care, Inc.*, Orange County Superior Court Case No. 37-2015-00778081; *Smith v. California Pizza Kitchen*, San Diego County Superior Court Case No. 37-2008-00083992; *STEROID HORMONE PRODUCT CASES*, Los Angeles County Superior Court Case No. JCCP 4363; *Stevenson Aibangbee v. Victoria Apartments, et al.*, Los Angeles County Superior Court Case No. BC299498; *Swift v. Liebert Corp.*, Orange County Superior Court Case No. 00CC04588; *Sylvia, et al. v. Wells Fargo Home Mortgage, Inc.*, Orange County Superior Court Case No. 03CC05747; *Vaquero v. Ashley Furniture Industries, Inc., et al.*, United States District Court, Central District of California Case No. 12CV8590; *Vaquero v. Stoneledge Furniture LLC*, Los Angeles County Superior Court Case No. BC522676; *Vazquez v. Kraft Heinz Foods Company*, United States District Court, Southern District of California Case No. 16-CV-02749; *Watson v. Raytheon Company*, United States District Court, Southern District of California Case No.10CV0634; and *Weigele v. FedEx Ground Package System, Inc.*, United States District Court, Southern District of California Case No. 06CV1330, among others, as well as being appointed Class Counsel in connection with well over 200 class action settlements.

10. As Class and PAGA Representative Counsel, Cohelan Khoury & Singer has commenced, prosecuted and concluded numerous state and federal class and representative actions. Just since 2016, the firm has played a central role in the resolution of over 200 such cases, including the following court approved settlements: (a) *Arellano, et al. v. Container*

1 *Connection of Southern California, Inc.*, Los Angeles County Superior Court, Case No.
2 BC500675, Hon. Anne I. Jones; (b) *Castro v. Home Depot U.S.A., Inc.*, Los Angeles County
3 Superior Court, Case No. BC577885, Hon. Elihu M. Berle; (c) *Czuchaj v. Conair Corporation*,
4 United States District Court, Southern District of California, Case No. 13-CV-1901 BEN, Hon.
5 Roger T. Benitez; (d) *Gardiner v. TSYs*, United States District Court, Central District of
6 California, Case No. 18-cv-00415, Hon. David O. Carter; (e) *Grana v. PICO Enterprises, Inc.*,
7 Los Angeles County Superior Court, Case No. BC472891, Hon. Stephanie M. Bowick; (f)
8 *Gutierrez v. Save Mart Supermarkets*, San Mateo County Superior Court, Case No. CIV530955,
9 Hon. Marie S. Weiner; (g) *Hernandez v. Workforce Enterprises WFE, Inc.*, Los Angeles County
10 Superior Court Case No. BC590913, Hon. Elihu M. Berle; (h) *Hicks v. Poway Academy of Hair*
11 *Design, Inc.*, San Diego County Superior Court, Case No. 2014-00026517, Hon. Ronald L.
12 Styn; (i) *Hubbard v. Caliber Home Loans, Inc.*, Orange County Superior Court, Case No. 2018-
13 01017838; (j) *Klein v. Loomis Armored US, LLC*, San Bernardino County Superior Court, Case
14 No. CIVDS1704547, Hon. David Cohn; (k) *Laureano v. The Art of Shaving*, Los Angeles
15 County Superior Court, Case No. BC550093, Hon. Amy D. Hogue; (l) *Lopez, et al. v.*
16 *Management & Training Corporation, et al.*, United States District Court, Southern District of
17 California, Case No. 17-CV-010624 JM, Hon. Jeffrey T. Miller; (m) *Magdaleno v. Shelly*
18 *Automotive, LLC*, Orange County Superior Court Case No. 2013-0043958, Hon. Kim. G.
19 Dunning; (n) *McGrath, et al. v. Wyndham Resort Development Corporation, et al.*, United
20 States District Court, Southern District of California, Case. No. 15-CV-1631 JM, Hon. Jeffrey
21 T. Miller; (o) *Mena v. Wolfgang Puck Catering*, Los Angeles County Superior Court Case No.
22 BC582743, Hon. John Shepard Wiley, Jr.; (p) *Morales v. The Los Angeles Country Club*, Los
23 Angeles County Superior Court, Case No. BC566493, Hon. William F. Highberger; (q) *Nijmeh*
24 *v. Bon Appetit Management Company, Inc.*, Santa Clara County Superior Court, Case No.
25 16CV294127, Hon. Thomas E. Kuhnle; (r) *Plascencia v. Aramark Services, Inc.*, Santa Clara
26 County Superior Court, Case No. 2015-1-CV-288310, Hon. Brian C. Walsh; (s) *Plimpton v.*
27 *Gordon Trucking, Inc.*, San Bernardino County Superior Court, Case No. CIV-DS-1511918,
28 Hon. Donald Alvarez; (t) *Raya v. Amazon*, USDC, Northern District of California, Case No. 15-

CV-02005 MMC, Hon. Maxine M. Chesney; (u) *Rivas v. ESA Management*, USDC, Central District of California, Case No. 14-CV-5767, Hon. Dale S. Fischer; (v) *Rodriguez v Healthcare Partner Medical Group, Inc.*, Los Angeles County Superior Court, Case No. BC541313, Hon. Kenneth Freeman; (w) *Ryan v. Dignity Health*, Sacramento County Superior Court Case No. 2013-00147371, Honorable Alan G. Perkins; (x) *Santana v. Rady Children's Hospital-San Diego*, San Diego County Superior Court Case No. 37-2014-00022411, Hon. Joel R. Wohlfeil; (y) *Schaffer v. Rady Children's Hospital-San Diego*, San Diego County Superior Court Case No. 337-2015-00022978; Hon. Joel R. Wohlfeil; (z) *Schneider v. Catholic Healthcare West*, San Francisco County Superior Court, Case No. CGC-10-506243, Hon. Angela Bradstreet; (aa) *Schwartz v Bank of the West*, San Francisco County Superior Court, Case No. CGC-14-538955, Hon. Harold E. Kahn; (ab) *Syed v. M.I. Swaco*, USDC, Eastern District of California, Case No. 12-CV-01718 DAD, Hon. Dale A. Drozd; (ac) *Vaquero, et al. v. Stoneledge Furniture, LLC*, Los Angeles County Superior Court Case No. BC522676, Hon. Elihu M. Berle; (ad) *Vazquez v. Kraft Heinz Foods Company*, USDC, Southern District of California Case No. 16-CV-02749, Hon. William Hayes; (ae) *Walsh v. Cedars-Sinai Medical Center*, LA County Superior Court Case No. BC487290, Hon. William Highberger; and others, in courts throughout California.

11. Plaintiff Don M. Vasquez seeks preliminary approval of a \$2,400,000 wage and hour class and PAGA settlement for non-exempt California employees who worked for Saputo Cheese USA Inc., ("Saputo"), anytime from May 27, 2016 to March 30, 2023 ("Class Period"). Attached as Exhibit 1 is a true and correct copy of the Stipulation of Class and PAGA Settlement ("Agreement" or "SA").

12. Saputo started in 1954 and became publicly traded in 1994. It produces, markets, and distributes dairy products, such as cheese, milk, and yogurt, at five plants in California - three in Tulare, one in Stanislaus, and one in Los Angeles. With one exception, the plants have mainly operated 24 hours per day, seven days per week.

13. "Class Members" are "All current and former nonexempt California employees of Saputo employed at any time from May 27, 2016 through and including March 30, 2023." SA ¶6. Class Members worked an estimated 400,000 weeks during the Class Period.

1 14. The Class includes an estimated 1,500 non-exempt California employees, who
2 worked anytime May 12, 2019 to March 30, 2023 (“PAGA Period”). “Aggrieved employees”
3 worked an estimated 133,000 pay periods.

4 15. On May 27, 2020, Plaintiff filed a class action against Saputo. This case was
5 removed July 24, 2020. On August 6, 2020, Plaintiff filed a PAGA action which was stayed
6 pending resolution of the class action. (Case No. VCU283853). The Parties eventually reached
7 the proposed settlement of both actions. The class action was remanded, and actions were
8 consolidated effective November 6, 2023.

9 16. Plaintiff argued Saputo did not provide compliant meal or rest periods and did
10 not adopt fully compliant written meal and rest policies until June 2017. Plaintiff also argued
11 employees were reluctant to report not being able to take rest and meal breaks because an
12 employee could be disciplined for failing to take a break.

13 17. Saputo contended its policies were compliant throughout the class period, and
14 produced evidence it communicated compliant rest and meal policies to employees in each
15 plant, including power point slides, testimony of a human resources employee, and attendance
16 sign-in sheets, including several signed by Plaintiff. Saputo also contended it did not discourage
17 employees from taking breaks and produced evidence employees, including Plaintiff, reported,
18 and been paid for, missed breaks. Saputo also correctly pointed out there were no records which
19 could establish rest period violations.

20 18. Plaintiff also contended rest periods were non-compliant because a few specific
21 positions for a short time at the start of the class period may have carried radios while on rest
22 breaks. This was for a limited period of time, was contested, and Saputo produced a written
23 policy explicitly stating radios were not to be carried during breaks. A class member survey
24 suggested few were required to carry a radio, or respond during breaks.

25 19. Review of the time data showed less than 20% facial non-compliance for meal
26 periods, which is relatively low. Saputo contended even that was overstated, and time records
27 showing missed, late or short meals, were a result of employee choice, and created individual
28 issues which would be difficult or impossible to certify. Review of the pay data showed Saputo

1 paid a substantial amount of meal period premiums during the class period.

2 20. Plaintiff contended on a several occasions he was told to clock out but continue
3 working. Saputo denied this and produced evidence of policies explicitly prohibiting off the
4 clock work. A mediation survey of class members did not support this claim. Geraci Decl. ¶19.

5 21. Plaintiff argued he reported to work but was not offered at least half his
6 scheduled shift. This could not be shown through documents. Saputo produced evidence it paid
7 for reporting time on one occasion it could not offer adequate work.

8 22. Saputo contended the estimated 17% of putative class members who worked at
9 its Newman, California plant and are covered by a collective bargaining agreement (CBA)
10 could not be establish class or PAGA claims, as any of the claims alleged required proceeding
11 through the grievance process, which Plaintiff could not have initiated, since he was not covered
12 by the CBA. Plaintiff believed it may have been possible to assert some claims arguably not
13 included in the CBA for these employees, but conceded this defense, if successful, could
14 substantially limit class any potential recovery.

15 23. Plaintiff conducted sufficient formal and informal discovery to evaluate the
16 strengths and weaknesses of his claims and Saputo's defenses, which included written discovery
17 and the corporate deposition of Saputo on all relevant topics, and Plaintiff sitting for his
18 deposition.

19 24. The Parties agreed to mediate in May 2022, with John S. Adler, Esq., a mediator
20 with more than 40 years of employment law experience. The matter did not settle. After re-
21 commencing discovery, and exchanging additional documents, the Parties agreed to a second
22 mediation.

23 25. By the second mediation, Saputo had produced all relevant rest and meal
24 policies, all policies covering off the clock work, power point presentations, documents
25 showing policies presented in person to employees, including attendance sheets, along with
26 100% of time and pay data through February 26, 2023. Plaintiff's consultant analyzed this data
27 and calculated class wide damages. Counsel conferred extensively about data, claims, defenses,
28 and settlement issues.

26. With significant investigation, research, discovery, and analysis of data by Plaintiff's damages consultant, On March 30, 2023, the Parties mediated with Honorable Amy D. Hogue (Ret.), a distinguished attorney and former judge who served in the Los Angeles County Superior Court's Complex Case Division, on assignment in the Second Appellate District, and was one of the creators of the Los Angeles County Superior Court Model Class Action and PAGA Settlement Agreement.

27. Plaintiff acknowledged and signed a joint prosecution agreement which provides a fee split of 50% each to Cohelan Khoury & Singer and Lebe Law, LLC.

28. Saputo will pay the maximum Gross Settlement Amount ("GSA") of \$2,400,000, including: (a) Settlement Administration costs to CPT Group not to exceed \$17,500; (b) a Class Representative service payment up to \$10,000 to compensate Plaintiff for services to, and risks taken on behalf of, the Class; (c) Class Counsel Fees up to \$800,000 (one-third GSA) (50/50 between Class Counsel with Plaintiff's consent; (d) Class Counsel Costs estimated \$35,000; (e) \$120,000 for PAGA penalties - \$90,000 (75%) Labor Workforce and Development Agency and \$30,000 (25%) Aggrieved Employees. Saputo will pay employer's share of payroll taxes in addition to the GSA. SA ¶11, 12 15, 16.

29. After Court-approved deductions, the estimated Net Class Settlement Fund ("NCSF"), \$1,417,500, will be distributed to Participating Class Members. Individual Gross Settlement Payments will be will be allocated as 20% wages (W-2), 80% penalties and interest (1099), and calculated by dividing the total number of weeks all Class Member worked during the Class Period by the NCSF and multiplying that number by the number of weeks each Class Member worked during the Class Period.

30. The Settlement distribution formula is fair and reasonable and does not give preferential treatment to any Class Member and can be made from data readily available from Saputo, and the Settlement Administrator can apply the formula fairly and transparently.

31. The Settlement is based on data provided by Saputo showing an estimated 400,000 Class Member Workweeks. If, by the date the calculations of estimated Individual Gross Settlement Payments are made, the number of Workweeks is more than 7.5% higher than

1 400,000 for the Class Period, the Gross Settlement Amount shall increase by that amount, i.e., if
2 the number of Workweeks increases by 7.50%, the GSA will not increase, but if the number of
3 Workweeks increases by 7.51% the GSA will increase by 7.51%. SA ¶23.

4 32. CPT Group will mail a “Class Notice” to each Class Member. Declaration of
5 CPT Group by Julie Green, ¶7, SA, Exh. A. The Notice explains how to dispute the basis of a
6 Settlement Payment; object or opt out; the release to be given; date of Final Approval Hearing;
7 how to get further information; and that it is unnecessary to submit a claim form.

8 33. The Settlement was reached through arm’s-length negotiations facilitated by an
9 experienced and respected wage and hour class action mediator. Though cordial and
10 professional, negotiations were at all times adversarial and non-collusive.

11 34. Plaintiff’s Counsel investigated all claims and defenses before filing. When the
12 Parties agreed to mediation, Plaintiff requested, and Defendant produced, data and documents to
13 allow liability to be assessed and damages to be calculated.

14 35. Proof of wage and hour class claims is based, at any stage, almost entirely on
15 written policies and pay records. Plaintiff’s counsel obtained those records, and an expert
16 analyzed them and prepared a damage model, before a settlement was negotiated.

17 36. Plaintiff’s Counsel have significant experience in wage and hour employment
18 class actions. This allowed Counsel to compare settlement of class claims with the risks of
19 further litigation, including trial and appeals. Defense counsel, S. Brett Sutton and Jared Hague,
20 are skilled and experienced wage and hour class action litigators who defended vigorously
21 throughout, including during mediation and in negotiations of the settlement agreement.

22 37. Experienced counsel believes the Settlement is fair, reasonable, and in the Class’
23 best interest in light of the monetary recovery, risks of certification, summary adjudication, the
24 lengthy process of establishing damages, and uncertainty of appeals.

25 38. In advance of mediation, Plaintiff’s Counsel evaluated the claims to determine
26 Defendant’s exposure and a reasonable range of Class relief. Although Plaintiff believes the
27 claims are strong, he recognizes if litigation were to continue, he may encounter significant
28 legal and factual hurdles that could prevent any Class recovery.

1 39. Class Counsel relied on similar documents and data as in *Munoz*, including time
2 and pay records. Plaintiff's economist analyzed over four million lines of data and documents,
3 and calculated damages through the date of mediation.

4 40. A total of 360,328 unique meal period violations were found in Saputo's records
5 and were multiplied by the aggregate average regular rate of \$23.69 per hour, to calculate a
6 maximum exposure of \$7,468,581 (360,328 x \$23.69 regular rate - \$1,067,597 estimated meal
7 period premiums paid by Saputo.

8 41. An analysis of time records showed only 19.8% unique violations in shifts over
9 five hours. (360,328/1,819,840 = 19.8%). Saputo correctly pointed out violations were mainly
10 for second meals. It argued second meals were waived and produced policies supporting this.
11 Saputo argued the *Donohue* presumption of violations based on time records would be easily
12 rebutted by among other things, its compliant written policies, and evidence employees received
13 regular policy training, verified by sign-in sheets. It cited several cases reaching that conclusion
14 and I found others.

15 42. Plaintiff believed maximum damages would be significantly reduced, if awarded,
16 based on the relatively low violation rate, which tends to suggest employees may have chosen to
17 take lunch late, or return early (the percentage of missed first meals was only 0.4%). Plaintiff's
18 counsel concluded realistic exposure was 25% of maximum, or \$1,867,145.

19 43. For the first year of the class period, Saputo's policy did not explicitly state
20 employees could leave the premises during rest periods, an arguable violation of the then new
21 decision, *Augustus v. ABM*. Proving rest period claims is more difficult than meal period claims
22 for several reasons. There are no records of rest periods, no presumption of violation, and
23 regardless of workload, it is easier to take 10-minute, than 30-minute breaks. Plaintiff believed
24 damages would be reduced compliant rest period policies, lack of evidence rest breaks were
25 discouraged, and evidence employees had been paid after reporting missed rest periods.

26 44. Plaintiff assumed a violation in 10% of 1,859,320 shifts over 3.5 hours, for
27 maximum exposure of \$4,404,729 (185,932 x \$29.59). It was determined realistic exposure was
28 no more than 20% of maximum, or \$482,337.

1 45. Plaintiff argued there was a short period of time employees in certain positions
2 carried radios and were required to respond to calls during meal periods. Saputo produced
3 evidence of an explicit policy introduced no later than June 2017, and provided to employees
4 (“Do not respond to calls during meal/rest periods or carry/use/possess a radio/walkie-talkie/cell
5 phone.”). Based on this, and lack of contrary evidence, Plaintiff assumed 20% of employees
6 carried radios and needed to be available to respond in 20% of shifts over five hours through the
7 end of July 2017. (10,401 shifts x .5 hrs x \$23.69). Plaintiff assumed 30 minutes in each of
8 these shifts for maximum exposure of \$123,200.

9 46. Based on the difficulty of proving a claim with no supporting records, and
10 Saputo’s evidence of effectively communicated policies prohibiting responding to radios on
11 breaks, realistic exposure was considered 20% of maximum, or \$24,260.

12 47. Based on time and pay records produced by Saputo, and a mediation survey, it
13 was determined the reporting pay claim had little value. Even assuming every employee was
14 denied reporting time pay during the class period, which the evidence did not show, maximum
15 exposure is \$222,686 (2,350 x 4 hrs x \$23.69), and realistic exposure is 10%, or \$22,269.

16 48. Plaintiff contended wage statements were non-compliant because they did not
17 show all hours worked due to off the clock work and unpaid rest and meal premiums. Penalties
18 were calculated for the 1,500 employees during this period and, assuming a \$4,000 penalty for
19 all, maximum exposure was \$6,000,000. § 226(e).

20 49. Based on the risk underlying violations would not be proven, and the likelihood
21 Saputo was found to have a good faith belief lawful wage statements, realistic exposure was
22 considered 5% of maximum exposure, or \$300,000.

23 50. For waiting time penalties, number of former employees was multiplied by
24 average shift length and pay, and 30 days. (655 x 8 hrs x \$23.69 x 30 = \$3,724,068).

25 51. If Plaintiff could prevail on the underlying claims, it was likely waiting time
26 penalties would be significantly reduced, or fail entirely. A court could find Saputo had a good
27 faith belief it was paying all wages which preclude imposition of waiting time penalties. Based
28 on all factors, penalties were discounted to 10%, for a reasonable exposure of \$372,407.

52. Plaintiff reported to work at one plant and drove 1.5 miles to another in his own car a handful of times, without reimbursement. A survey showed this was extremely rare, and Saputo produced reimbursement policies distributed to employees. Assuming 10% of employees drove 20 miles per year, which the evidence did not support, at the aggregate IRS rate of \$0.55 per mile, maximum expense reimbursement exposure is \$14,276, and reasonable exposure is 50% of that, \$7,138.

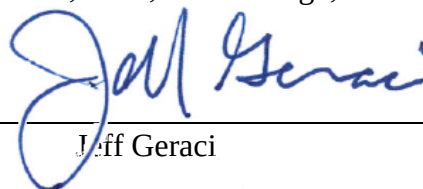
53. Starting May 12, 2019, PAGA penalties were calculated for the 133,802 pay periods in which one of the six violations could have occurred: Sec. 1194 (OTC) – \$13,380,200; Sec. 226.7 (meal) – \$6,109,900; Sec. 226.7 (rest) - \$13,380,200; Sec. 226 (wage statements) – \$13,380,200; Sec. 2802 (reimbursement) – \$2,058,500; Sec. 203 – \$65,500 (final pay) (655 former employees). (\$100 per pay period) Total penalties - \$48,374,500.

54. Plaintiff believed reasonable exposure was no more than 5% of exposure, \$2,418,725, and likely much less, based on all factors considered in determining reasonable exposure for the class claims, the extreme disparity between the maximum exposure for class claims and the much larger PAGA penalties, the ability of the court to reduce penalties nearly to zero, and decisions holding courts may strike PAGA unmanageable claims.

55. On the same date this motion and its exhibits are filed with the Court, they will be served upon Defendant and provided to the Labor and Workforce Development Agency (“LWDA”) via the LWDA’s website, www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act, using the appropriate intake form. Attached as Exhibit 2 is a true and correct copy of the LWDA confirmation of Receipt.

56. Our firm is prepared to continue to zealously represent the interests of the class and I am aware of no conflicts with the interests of the Class.

I declare under penalty of perjury under the laws of California the foregoing is true and correct and this declaration is executed November 7, 2023, at San Diego, California.



Jeff Geraci

EXHIBIT 1

1 **LEBE LAW, APLC**

Jonathan M. Lebe (SBN 284605)

2 Jon@lebelaw.com

3 Zachary Gershman (SBN 328004)

Zachary@lebelaw.com

4 777 S. Alameda Street, Second Floor

Los Angeles, CA 90021

5 Telephone: (213) 444-1973

6 **COHELAN KHOURY & SINGER**

7 Michael D. Singer (SBN 115301)

msinger@ckslaw.com

8 Jeff Geraci (SBN 151519)

jgeraci@ckslaw.com

9 605 C Street, Suite 200

10 San Diego, CA 92101

Telephone: (619) 595-3001/Facsimile: (619) 595-3000

11
12 Attorneys for Plaintiff Don Vasquez,
[Additional Counsel Listed on Following Page]

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF TULARE**

15
16 DON VASQUEZ, individually and on behalf
17 of all others similarly situated,

18 Plaintiff,

19 vs.

20 SAPUTO CHEESE USA, INC.; and Does 1
21 through 20, inclusive,

22 Defendants.

Case No. VCU282978

CLASS ACTION

**STIPULATION OF CLASS ACTION AND
PAGA SETTLEMENT**

Action Filed: May 27, 2020

Trial Date: None Set

SUTTON HAGUE LAW CORPORATION, P.C.

S. Brett Sutton (SBN 143107)

brett@suttonhague.com

Jared Hague (SBN 251517)

jared@suttonhague.com

Jonathan W. Black (SBN 280421)

jonathan@suttonhague.com

5200 N. Palm Avenue, Suite 203

Fresno, California 93704

Telephone: (559) 325-0500/Facsimile: (559) 981-1217

Attorneys for Defendant SAPUTO CHEESE USA, INC.

1 Subject to final approval by the Court, which counsel and the parties agree to pursue and
2 recommend in good faith, Plaintiff Don Vasquez (“Named Plaintiff”), individually and on behalf
3 of all others similarly situated and alleged aggrieved employees, on the one hand, and Defendant
4 Saputo Cheese USA, Inc. on the other (“Defendant”), hereby agree to the following binding
5 Settlement of the class action designated *Vasquez v. Saputo Cheese USA, Inc.*, Superior Court of
6 the State of California, County of Tulare, Case No. VCU282978. As detailed below, in the event
7 the Court does not enter orders consistent with the Settlement terms or the conditions precedent are
8 not met for any reason, this Stipulation shall be void and shall be of no force or effect whatsoever.

9 **I. DEFINED TERMS**

10 As used herein, the following terms shall have the meanings specified below. To the extent
11 terms or phrases used in this Stipulation are not specifically defined below, but are defined
12 elsewhere in the Stipulation, they are incorporated by reference into this definition section:

13 1. “Action” or “Lawsuit” means the lawsuit captioned as *Vasquez v. Saputo Cheese*
14 *USA, Inc.*, Superior Court of the State of California, County of Tulare, Case No. VCU282978 and
15 any and all other lawsuits consolidated thereto, including but not limited to Case No. VCU283853.

16 2. “Agreement,” or “Stipulation” means this Stipulation and Settlement of class action
17 claims and claims brought under the California Labor Code Private Attorneys General Act (Cal.
18 Labor Code §§ 2698 *et seq.*).

19 3. “Attorneys’ Fees and Cost Award” means the amount authorized by the Court to be
20 paid to Class Counsel for the services they have rendered and costs and expenses they have incurred
21 in prosecuting the Action.

22 4. “Saputo” means and refers to Defendant Saputo Cheese USA, Inc.

23 5. “Claims” means all claims which have been, will be (pursuant to Section I,
24 Paragraphs 31 and 32, *infra*), or could have been asserted in the Action based on the facts alleged.

25 6. “Class” or “Settlement Class” means and refers to: All current and former non-
26 exempt California employees of Saputo employed at any time from May 27, 2016 through and
27 including March 30, 2023. “Class Member” or “Settlement Class Member” refers to individual
28 members of the Class.

1 7. “Class Counsel” and “Named Plaintiff’s Counsel” means and refers to Jonathan
2 Lebe and Zachary Gershman of Lebe Law, APLC and Michael Singer and Jeff Geraci of Cohelan
3 Khoury & Singer. Class Counsel represent and warrant that, other than the individuals and firms
4 referenced in this definition, no individuals or law firms represent Plaintiff or the Settlement Class
5 in connection with this Action or have any right to seek reimbursement of fees or expenses in
6 connection with this Action.

7 8. “Class List and Data Report” means the following: a list of the Class Members that
8 provides their names; last known mailing addresses and telephone numbers; social security
9 numbers; and the start and end dates of active employment during the Class Period, as reflected in
10 Defendant’s existing business records and to the extent such records and information exists.
11 Defendant will diligently and in good faith compile the Class List and Data Report from their
12 records. Defendant will provide the Class List and Data Report to the Settlement Administrator
13 within twenty-one (21) calendar days following Preliminary Approval of the Settlement. The Class
14 List and Data Report shall be provided in a ready to use computer-readable format approved by the
15 Settlement Administrator.

16 9. “Class Period” means the period May 27, 2016 to and including March 30, 2023.

17 10. “Court” means the Superior Court of California, County of Tulare.

18 11. “Defendant” means and refers to Saputo Cheese USA, Inc.

19 12. “Effective Date” means the date when both of the following have occurred: (a) the
20 Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
21 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
22 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one
23 or more Participating Class Members objects to the Settlement, the day after the deadline for filing
24 a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after
25 the appellate court affirms the Judgment and issues a remittitur.

26 13. “Final Approval Hearing/Settlement Fairness Hearing” means the hearing at which
27 the Court considers whether to approve the Settlement and to enter the Final Judgment.

28 ///

1 14. “Final Judgment” refers to the order of the Court granting final approval of this
2 Stipulation of Settlement and entering a judgment approving this Agreement on substantially the
3 terms provided in the Agreement.

4 15. “Gross Individual Settlement Payment” means the total Settlement amount for each
5 individual Class Member resulting from the calculations set forth herein for the complete settlement
6 and release of any and all non-PAGA claim.

7 16. “Gross Settlement Amount” (“GSA”) means the total maximum amount that Saputo
8 will pay under this Agreement. The Gross Settlement Amount equals two million four hundred
9 thousand U.S. dollars (\$2,400,000). All payments associated with the parties’ settlement shall be
10 paid from the Gross Settlement Amount, including all monies allocated to Participating Class
11 Members, the PAGA Group, Named Plaintiff, Class Counsel, the Labor and Workforce
12 Development Agency, and the Settlement Administrator and the employees’ employment taxes,
13 including the employee FICA, FUTA and SDI contributions, on the wage portion of the Gross
14 Individual Settlement Payment. Defendant’s share of taxes will be paid separately from and in
15 addition to the Gross Settlement Amount and will not be deducted from the Gross Settlement
16 Amount.

17 17. “Individual PAGA Payment” means the amount payable from the Net Class
18 Settlement Fund to each PAGA Group Member. The Individual PAGA Payment shall be calculated
19 pursuant Paragraph III.15. herein.

20 18. “Individual Settlement Payment” means the amount of each Participating Settlement
21 Class Member’s Gross Individual Settlement Payment, less employee portions of state and federal
22 withholding taxes, including the employee FICA, FUTA and SDI contributions and any other
23 applicable payroll deductions required by law as a result of the payment of the amount allocated to
24 such Participating Settlement Class Member under the terms of the Settlement.

25 19. “Named Plaintiff” means proposed settlement class representative Don Vasquez.

26 20. “Net Class Settlement Fund” or “NCSF” refers to the funds available to be
27 distributed to Participating Class Members as Gross Individual Settlement Payments after payment
28 of any Attorneys’ Fees and Cost Award, Settlement Administration Costs, Enhancement Award

1 and the PAGA Payment, and less applicable taxes. Class Members shall not be required to submit
2 a claim in order to receive a share of the NCSF, and no portion of the Gross Settlement Amount
3 shall revert to Defendant.

4 21. "Notice" means the Notice of Class Action Settlement which describes the terms of
5 the Settlement, procedure and time period to Opt-Out of or object to the Settlement, and the date
6 set for the Final Approval Hearing (substantially in the form attached hereto as Exhibit A). The
7 Parties agree that the Notice does not need to be translated into Spanish or any other language
8 because, to the best of their knowledge, the majority of the Class Members are sufficiently fluent
9 in English.

10 22. "Notice Response Deadline" means the date forty-five (45) calendar days after the
11 Notice is initially mailed to Class Members by the Settlement Administrator and is synonymous
12 with Opt-Out/Objection Deadline Date, as defined immediately below.

13 23. "Opt-Out/Objection Deadline Date" means the deadline date forty-five (45)
14 calendar days after the date the Notice is initially mailed to the Class Members by which Class
15 Members must postmark an opt-out or objection to be considered timely.

16 24. "Opt-Out" means a timely letter submitted by a Class Member indicating a request
17 to be excluded from the Settlement. The Request for Exclusion must: (a) set forth the name, address,
18 and telephone number of the Class Member requesting exclusion; (b) clearly state that the Class
19 Member does not wish to be included in the Settlement; (c) be signed by the Class Member; (d) be
20 returned by mail to the Settlement Administrator at the specified address indicated in the Notice;
21 and (e) be postmarked on or before the Opt-Out/Objection Deadline Date. The date of the postmark
22 shall be the exclusive means to determine whether a Request for Exclusion has been timely
23 submitted. A Class Member who does not request exclusion from the Settlement shall be deemed
24 a Participating Class Member and will be bound by all terms of the Settlement if the Settlement is
25 granted final approval by the Court.

26 25. "PAGA Group" means and refers to all current and former non-exempt California
27 employees of Saputo employed at any time from May 12, 2019 through and including March 30,
28 2023. Each member of the PAGA Group is a "PAGA Group Member."

1 26. “PAGA Payment” means the total maximum amount to be paid to the Labor
2 Workforce Development Agency and the PAGA Group pursuant to the California Private Attorney
3 General Act of 2004 (“PAGA”) as set forth in Section III, Paragraph 15, *infra*.

4 27. “Participating Class Member” means a Class Member who has not Opted Out of the
5 Settlement.

6 28. “Parties” means Defendant, the Named Plaintiff, PAGA Group, and the Class
7 Members.

8 29. “Preliminary Approval Order” means the Order issued by the Court preliminarily
9 approving the terms of the Settlement set forth in this Stipulation.

10 30. “Qualified Settlement Fund” or “QSF” shall be the fund established by the
11 Settlement Administrator pursuant to Internal Revenue Code Section 1.468B-1 and funded by
12 Defendant within fourteen (14) business days after the Effective Date. This amount shall be the
13 Gross Settlement Amount. All payments pursuant to this Agreement shall be made from the QSF
14 in a manner consistent with the terms of this Agreement.

15 31. “Released Class Claims” means, for All Participating Class Members, on behalf of
16 themselves and their respective former and present representatives, agents, attorneys, heirs,
17 administrators, successors, and assigns, release Released Parties from (i) all claims that were
18 alleged, or reasonably could have been alleged, based on the Class Period facts stated in the
19 Operative Complaint, including any and all claims arising under federal, state, and/or local
20 statutory, constitutional, contractual, or common law for wages, damages, costs, penalties,
21 liquidated damages, punitive damages, interest, attorney fees, litigation costs, expenses, other fees
22 of any kind, restitution, equitable relief, other relief under California Business & Professions Code
23 Section 17200 et seq. (“Section 17200”) by or on behalf of any of the Participating Class Members,
24 whether individual, direct, class, representative, legal, equitable, or other type or in any other
25 capacity against Defendant and the Released Parties, which the Class Members ever had, now have,
26 or may have had based on the Class Period facts stated in the Operative Complaint, from the
27 beginning of time to the Effective Date, including, but not limited to, failure to timely pay minimum
28 wage, failure to pay overtime wages, failure to pay reporting time pay, failure to provide timely,

1 off-duty meal and/or rest breaks, failure to timely pay all wages due and owing during employment,
2 failure to promptly pay all wages due and owing at the time of the employee's separation from
3 employment, failure to provide accurate itemized wage statements, failure to reimburse employees
4 for business expenses, engaging in any unlawful/unfair/fraudulent business practices in violation
5 of Section 17200 and the requirements of the Industrial Welfare Commission Wage Order
6 applicable thereto.

7 32. "Released PAGA Claims" means and shall include, without limitation, any and all
8 claims for PAGA civil penalties that could have been assessed or collected by Plaintiff or the
9 LWDA, a State of California Executive Branch Agency under the PAGA, from the Released Parties
10 based on the facts alleged in the Complaint, including any and all claims for failure to pay minimum
11 wage, failure to pay overtime, failure to provide compliant meal periods, failure to provide
12 compliant rest periods, failure to issue accurate itemized wage statements, failure to pay all wages
13 owed during employment, failure to reimburse employees for business expenses, failure to pay
14 reporting time pay, failure to maintain accurate payroll records for its non-exempt employees, and
15 failure to pay all wages due and owing upon termination.

16 33. "Released Parties" shall mean Defendant and its present and former parent,
17 subsidiaries, affiliates, insurers, successors, assignees, and any other entity with an interest in or
18 obligation regarding Defendant's assets or liabilities, including but not limited to any controlling
19 persons, associates, affiliates, or subsidiaries and each and all of their respective past or present
20 officers, members, managers, directors, executives, stockholders, principals, representatives,
21 employees, attorneys, financial or investment advisors, insurers, consultants, suppliers, distributors,
22 customers, contractors, experts, accountants, bankers, testing laboratories, advisors or agents, heirs,
23 executors, trustees, general or limited partners or partnerships, limited liability companies,
24 members, joint ventures, personal or legal representatives, estates, administrators, predecessors,
25 successors, and assigns, whether or not specifically named or participating in the settlement by
26 payment or otherwise.

27 34. "Released Class Period" shall mean the period of time for which the Participating
28 Class Members have released the Released Class Claims and shall be defined as the time from May

1 27, 2016 through the date of preliminary approval of the Settlement, or June 30, 2023, whichever
2 is first.

3 35. “Released PAGA Period” shall mean the period of time for which the PAGA Group
4 has released the Released PAGA Claims and shall be defined as the time from May 12, 2019
5 through the date of preliminary approval of the Settlement, or June 30, 2023, whichever is first.

6 36. “Settlement Administrator” means and refers to CPT Group, a third-party class
7 action settlement administrator agreed to by the Parties, who will, among other things, provide the
8 Notice Packet to the Class Members and distribute the settlement amounts as described in this
9 Stipulation.

10 37. “Settlement Administration Costs” means the costs payable from the Gross
11 Settlement Amount to the Settlement Administrator for administering this Settlement including,
12 but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting,
13 distributing the Settlement Amount, and providing necessary reports and declarations, and any
14 other expenses incurred by the Settlement Administrator to complete the settlement process
15 according to the terms of this Agreement, as requested by the Parties. The Settlement
16 Administration Costs shall be paid from the Gross Settlement Amount, including, if necessary, any
17 such costs in excess of the amount represented by the Settlement Administrator as being the
18 estimated costs necessary to administer the Settlement.

19 38. “Pay Period” and/or “Pay Periods” means the number of pay periods PAGA Group
20 Members worked for Defendant in California in a non-exempt position during the PAGA Period.
21 If it is determined that any PAGA Group Member worked a partial Pay Period, it shall be considered
22 a full Pay Period. All PAGA Group Members will be entitled to payment for at least one (1) Pay
23 Period.

24 39. “Pay Period Value” means the settlement value of each Pay Period, as determined
25 by the formula set forth below in Section III, Paragraph 15(a).

26 40. “Workweek” or means the number of pay periods Settlement Class Members
27 worked for Defendant in California in a non-exempt position during the Class Period. If it is
28 determined that any Settlement Class Member worked a partial Workweek, it shall be considered

1 a full Workweek. All Settlement Class Members will be entitled to payment for at least one (1)
2 Workweek.

3 41. “Workweek Value” means the settlement value of each Pay Period, as determined
4 by the formula set forth below in Section III, Paragraph 16(a).

5 **II. RECITALS**

6 This Stipulation is made by Named Plaintiff on behalf of himself and each Class Member
7 and each member of the PAGA Group, on the one hand, and Defendant, on the other hand, and is
8 subject to the approval of the Court.

9 **INVESTIGATION IN THE CLASS ACTION**

10 The Parties have conducted significant investigation of the facts and law during the
11 prosecution of the Action. This investigation included the exchange of information preliminary to
12 two separate mediations, multiple sets of written discovery regarding Defendant’s policies and
13 practices, the depositions of the Person Most Knowledgeable of Defendant and Named Plaintiff,
14 and voluminous samples of employee time records and payroll records for the Settlement Class that
15 are relevant to the Named Plaintiff’s claims and the analysis by the Parties of the class-wide
16 information to investigate the merits of Named Plaintiff’s claims and Defendant’s potential
17 liability. Furthermore, counsel have investigated the facts and law relating to the claims alleged
18 and that could have been alleged based on the facts and claims alleged in the action, including the
19 initial Complaint and all subsequent amended complaints and potential defenses thereto, and the
20 potential damages claimed by Named Plaintiff.

21 Counsel for the Parties engaged in extensive discussions about the strengths and weaknesses
22 of the claims and defenses over the course of the preceding three years. The Parties attended two
23 separate mediation sessions, the first of which was supervised and conducted by John S. Adler,
24 Esq., a mediator with more than 40 years of experience in employment law on behalf of individuals
25 and businesses of all sizes, and the second of which was supervised and conducted by the Honorable
26 Amy D. Hogue (Ret.), a distinguished attorney and former judge with experience including time
27 with the Los Angeles County Superior Court’s Complex Case Division and on assignment in
28 Division Three of the Second Appellate District. These mediations ultimately resulted in a

mediator's proposal by Judge Hogue on or about March 31, 2023, the terms and conditions of which were accepted by the Parties and are now set forth in this Settlement.

BENEFITS OF SETTLEMENT TO CLASS MEMBERS

Named Plaintiff and Class Counsel recognize the expense and length of continued proceedings necessary to litigate the disputes through trial and through any possible appeals. Named Plaintiff has also considered the uncertainty and risk of the outcome of further litigation, the uncertain merits of the claims, and the difficulties and delays inherent in such litigation. Named Plaintiff and Class Counsel are also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, both generally and in response to Defendant's defenses thereto. Named Plaintiff and Class Counsel have also considered the extensive settlement negotiations conducted and Defendant's agreement to enter into a settlement that confers substantial benefits and relief upon the Class Members. Based on the foregoing, Named Plaintiff and Class Counsel have determined that the Settlement set forth in this Agreement is a fair, adequate and a reasonable Settlement, and is in the best interests of the Class.

DEFENDANT'S REASONS FOR SETTLEMENT

Without conceding any infirmity in its defenses, Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of time, energy and resources of Defendant have been spent and, unless this settlement is made, will continue to be devoted to the defense of the Claims asserted by the Named Plaintiff. Defendant has also considered the risks and uncertainties associated with further litigation in reaching its decision to enter into this Settlement. Defendant has, therefore, agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Claims in the Action.

Defendant denies any fault, wrongdoing, or liability, whether individually, as a class, or in any kind of representative capacity, in connection with this lawsuit. Relying on the provisions of this Agreement that the settlement embodied here shall in no event be construed as or deemed to be evidence of an admission or a concession on the part of Defendant (or any of its predecessors, successors, parent or subsidiary companies, affiliates, officers, directors, agents, attorneys, representatives, insurers, suppliers, distributors, or vendors) of any fault, wrongdoing, or liability

1 whatsoever, or that any of the allegations in the Complaint are true or Class Members' claims
2 meritorious.

3 This Agreement is a compromise of disputed claims. Nothing contained in this Agreement,
4 no documents referred to herein, and no action taken to carry out this Agreement may be construed
5 or used as an admission by Defendant or against Named Plaintiff or Class Counsel as to the merits
6 or lack thereof of the Claims asserted.

7 **III. STIPULATION AND AGREEMENT**

8 ***NOW, THEREFORE, IT IS HEREBY STIPULATED***, by and among the Named Plaintiff
9 on behalf of the Class Members and the members of the PAGA Group on the one hand, and
10 Defendant on the other hand, and subject to the approval of the Court, that the Action is hereby
11 being compromised and settled pursuant to the terms and conditions set forth in this Agreement,
12 and subject to the following terms and conditions:

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

15 2. Stipulation for Class Certification. For settlement purposes only, the Parties
16 stipulate and agree that (i) the Class Members described herein who do not Opt Out from the
17 Settlement Class may be conditionally certified as a Settlement Class, (ii) Named Plaintiff Don
18 Vasquez shall be appointed as representative for the Class, and (iii) Class Counsel shall be
19 appointed as Class Counsel for the Class. This stipulation to certification and appointments of class
20 representative and class counsel is in no way an admission that class action certification or
21 appointments is proper and shall not be admissible in this or in any other action except for the sole
22 purpose of enforcing this Agreement. Should, for whatever reason, the Court deny Final Approval,
23 or this Settlement not become effective, the Parties' stipulation to class certification as part of the
24 Settlement shall become null and void ab initio and shall have no bearing on and shall not be
25 admissible in connection with the issue of whether certification would be appropriate in a non-
26 settlement context. Defendant expressly reserves its rights and declares that it would continue to
27 oppose class certification and the substantive merits of Plaintiff's claims should the Court deny
28 Final Approval or should this Settlement not become effective. Plaintiff expressly reserves his

1 rights and declares that he will continue to pursue class certification and a trial should the Court
2 fail to grant Final Approval or should this Settlement not become effective.

3 3. For settlement purposes only, the Parties stipulate and agree that the Named Plaintiff
4 was deputized by the State of California, pursuant to PAGA, to negotiate and compromise the
5 Released PAGA Claims on behalf of any and all “Aggrieved Employees” as defined by Labor Code
6 section 2699(c), subject to the approval procedure set forth in Labor Code section 2699(l). Should,
7 for whatever reason, the Court deny Final Approval, or this Settlement not become effective, the
8 Parties’ stipulation to Named Plaintiff’s representation of any and all “Aggrieved Employees” as
9 defined by Labor Code section 2699(c) as part of the Settlement shall become null and void ab
10 initio and shall have no bearing on and shall not be admissible in connection with the issue of
11 whether or not this Action could proceed in a representative context in a non-settlement context.
12 Defendant expressly reserves its rights and declares that it would continue to oppose this action
13 proceeding on a representative basis and the substantive merits of Plaintiff’s claims should the
14 Court deny Final Approval or should this Settlement not become effective. Plaintiff expressly
15 reserves his rights and declares that he will continue to pursue representation of “Aggrieved
16 Employees” as defined by Labor Code section 2699(c) and a trial should the Court fail to grant
17 Final Approval or should this Settlement not become effective.

18 4. Release as to Participating Class Members and all PAGA Group Members. As of the
19 Effective Date, the Participating Class Members, including any Participating Class Members who
20 object to this Agreement pursuant to the procedures set forth below, fully, finally, and forever
21 completely release and discharge the Released Parties from the Released Claims for the Class
22 Period. Similarly, as of the Effective Date, Plaintiff, individually and on behalf of the Labor and
23 Workforce Development Agency and members of the PAGA Group, forever completely release,
24 relinquish, and discharge the Released PAGA Claims. Participating Class Members and members
25 of the PAGA Group shall be forever barred from asserting, instituting, or maintaining against any
26 or all of the Released Parties, any and all claims, demands, actions, causes of action, lawsuits,
27 arbitrations, damages, or liabilities whether legal, equitable, or otherwise, relating in any way to
28 the claims asserted or the factual or legal allegations made in the Action. Members of the PAGA

1 Group will not have the opportunity to opt out of the PAGA Group or object to the PAGA Payment
2 and release of the PAGA Claims.

- 3 a. The release shall be included as part of any final judgment in this action, and all
4 released claims and rights are intended to be barred by principles of res judicata.
5 “Released Claims” does not release any person, party or entity from claims, if
6 any, by Settlement Class Members for workers compensation, unemployment,
7 wrongful termination, discrimination, harassment, retaliation, or disability
8 benefits of any nature. The Released Claims are those that accrued during the
9 Class Period.

10 5. Section 1542 Waiver.

11 In agreeing to the foregoing waiver, Plaintiff expressly waives and relinquishes the
12 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

20 6. Inapplicability of Labor Code § 206.5. Plaintiff, on behalf of himself and the
21 Settlement Class, acknowledges and agrees that the claims for failure to pay all overtime wages,
22 minimum wage violations, meal period violations, wage statement violations, and waiting time
23 penalties in the Action are disputed, and that the payments set forth herein constitute payment of
24 all sums allegedly due to them regarding the allegations in this Action. Plaintiff, on behalf of
25 himself and the Settlement Class, acknowledge and agree that California Labor Code § 206.5 is not
26 applicable to the Parties hereto. That section provides in pertinent part as follows:

27 An employer shall not require the execution of any release of any claim or right on account
28 of wages due, or to become due, or made as an advance on wages to be earned, unless
payment of those wages has been made.

7. Tax Liability. Defendant makes no representations as to the tax treatment or legal

1 effect of the payments called for herein, and Named Plaintiff, Participating Class Members,
2 members of the PAGA Group, and Class Counsel are not relying on any statement or representation
3 by Defendant in this regard and shall hold Defendant harmless from any claim or liability for taxes,
4 penalties or interest arising as a result of the payment. Named Plaintiff, Participating Class
5 Members, Class Counsel, and members of the PAGA Group understand and agree that Named
6 Plaintiff will be solely responsible for the payment of any taxes and penalties assessed on the
7 payments described herein. Income and other tax withholding will also be made pursuant to
8 applicable state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will
9 be distributed at the times and in the manner required by the Internal Revenue Code of 1986 (the
10 “Code”) and consistent with this Agreement. If the Code, the regulations promulgated thereunder,
11 or other applicable tax law, is changed after the date of this Agreement, the processes set forth in
12 this Section may be modified in a manner to comply with any such changes.

13 8. CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR
14 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY
15 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER
16 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
17 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
18 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
19 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE
20 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
21 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR
22 PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
23 EXCLUSIVELY UPON HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL
24 FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT,
25 (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
26 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
27 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
28 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY

1 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
2 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
3 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
4 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
5 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
6 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
7 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
8 AGREEMENT.

9 9. No Effect on Employee Benefits. Amounts paid to Plaintiff, Participating Class
10 Members, or members of the PAGA Group pursuant to this Settlement will not count as earnings
11 or compensation for purposes of any benefits (e.g., pensions or retirement plans) sponsored by
12 Defendant. It is expressly understood and agreed that the receipt of an Gross Individual Settlement
13 Payment or Individual PAGA Payment shall not entitle any Participating Class Member or member
14 of the PAGA Group to additional compensation or benefits under any collective bargaining
15 agreement or under any bonus, contest, or other compensation or benefit plan or agreement in place
16 during the period covered by the Settlement, nor shall it entitle any Participating Class Member or
17 member of the PAGA Group to any increased pension and/or retirement, or other deferred
18 compensation benefits. It is the intent of the Parties that Gross Individual Settlement Payments and
19 Individual PAGA Payments, as provided for in this Stipulation, are the sole payments to be made
20 by Defendant to Plaintiff, Participating Class Members, and members of the PAGA Group, in
21 connection with this Settlement, and that Plaintiff, the Participating Class Members and members
22 of the PAGA Group are not entitled to any new or additional compensation or benefits as a result
23 of having received the Gross Individual Settlement Payments or Individual PAGA Payments.
24 Furthermore, the receipt of monies from the Settlement shall not, and does not, by itself establish
25 any general, special, or joint employment relationship between and among the Plaintiff,
26 Participating Class Members, and members of the PAGA Group and Defendant.

27 10. Creation of the Qualified Settlement Fund and Administration of the Settlement.
28 Within fourteen (14) business days after the Effective Date, Defendant shall deliver the Gross

1 Settlement Amount into the Qualified Settlement Fund created by the Settlement Administrator,
2 plus shall separately pay its share of employer payroll taxes. All payments that Defendant is
3 required to make pursuant to the Settlement Agreement, including, but not limited to, all monies
4 allocated to Participating Class Members, the PAGA Group, Class Counsel, the Labor and
5 Workforce Development Agency, the Settlement Administrator, and FICA, FUTA and SDI
6 contributions and the employee's portion of all payroll taxes, shall be made from the Gross
7 Settlement Amount.

8 11. Attorneys' Fees and Cost Award. Class Counsel shall request, and Defendant agrees
9 to not oppose or impede, an award of attorneys' fees not in excess of one-third (1/3) of the Gross
10 Settlement Amount, or \$800,000, as well as an additional amount for reasonable actual litigation
11 costs. The Attorneys' Fees and Cost Award shall be paid from the Gross Settlement Amount.
12 Named Plaintiff expressly consents to this distribution of the Attorneys' Fees and Cost Award. Any
13 amount awarded for attorneys' fees to Class Counsel less than \$800,000 will result in the non-
14 awarded amounts to be part of the Net Class Settlement Fund, available for distribution to
15 Participating Class Members. So long as there are no objections, Class Counsel shall be paid any
16 Court-approved fees and costs no later than ten (10) calendar days after the Defendant delivers the
17 Gross Settlement Amount to the Settlement Administrator for deposit into the Qualified Settlement
18 Fund. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the
19 payment made pursuant to this Paragraph. A Form 1099 – MISC, Box 14 shall be provided to
20 Class Counsel by the Settlement Administrator for the payment made pursuant to this Paragraph.
21 The Attorneys' Fees and Costs awarded from the Gross Settlement Amount shall constitute full
22 satisfaction of any claim by any person, attorney, or law firm for attorneys' fees, expenses, or costs
23 in any way related to the Action. Neither Class Counsel nor any other current or past counsel for
24 Plaintiff shall be permitted to petition the Court for, or to accept, any additional payments for
25 attorneys' fees, costs, interest, or any other amount from Defendant in connection with this
26 Agreement except as specified above.

27 12. Settlement Administrator. The Settlement Administrator shall be paid for the costs
28 of administration of the settlement from the Gross Settlement Amount. The estimate of such costs

1 of administration for the disbursement of the Gross Settlement Amount is \$17,500. In the event
2 that the costs of administration by the Settlement Administrator are less than \$17,500, then such
3 amount will be made part of the Net Class Settlement Fund, available for distribution to
4 Participating Class Members. In the event that the costs of administration by the Settlement
5 Administrator are more than \$17,500, then such amount will be deducted from the Gross Settlement
6 Fund, and therefore no longer available for distribution to Participating Class Members. The
7 Settlement Administrator will be responsible for the mailing of Notice to the class, receipt of any
8 requests to Opt-Out, receipt of any objections to the Settlement, resolution of any disputes (subject
9 to court approval), payment of individual settlement amounts to the Class Members, and the
10 issuance of all related tax documents (i.e., W-2s and 1099s).

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

15 a. Named Plaintiff shall endeavor to file a Motion for Preliminary Approval as
16 soon as reasonably possible. Defendant will not object to Plaintiff's motion for preliminary
17 approval, subject to its review of the motion and as long as it is consistent with this Agreement.

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

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

23 d. In conjunction with this hearing, Named Plaintiff will submit this Stipulation,
24 and will include the proposed form of the Notice as reviewed and approved by Defendant, and as
25 attached hereto as **Exhibit A**. The Order shall provide for Notice of the settlement to be sent to
26 Class Members as specified herein.

27 14. Settlement Administration/Management. The Individual Settlement Payments shall
28 be managed and administered as follows:

1 a. Defendant shall not have any obligation to segregate the funds to be used for the
2 Gross Settlement Amount from other assets. Defendant will retain exclusive authority over, and
3 responsibility for, the funds comprising the Gross Settlement Amount and the employer's share of
4 payroll taxes until such time as payment is due.

5 b. CPT Group shall be retained to serve as Settlement Administrator. The Parties
6 represent that they do not have any financial interest in the Settlement Administrator or otherwise
7 have a relationship with the Settlement Administrator that could create a conflict of interest.

8 c. No payments are due to the Settlement Administrator until the Qualified
9 Settlement Fund is funded.

10 d. Defendant shall provide the Settlement Administrator with the Class List and
11 Data Report within twenty-one calendar days of Preliminary Approval of the Settlement.

12 e. Within ten (10) business days of receipt of the Class List and Data Report, the
13 Settlement Administrator shall mail the Notice to each Class Member in accordance with the terms
14 of this Agreement and as approved by the Court. The Class List and Data Report provided to the
15 Settlement Administrator will remain confidential and will not be used or disclosed to anyone by
16 the Settlement Administrator, except as required by applicable tax authorities, pursuant to
17 Defendant's express written consent, or by order of the Court.

18 f. All Class Members who do not Opt Out of the Settlement shall be Participating
19 Settlement Class Members.

20 g. With the motion for final approval of this settlement, the Settlement
21 Administrator shall provide Defendant's Counsel and Class Counsel a report showing: (i) the names
22 and number of Class Members who have objected to the settlement; (ii) the names and number of
23 Class Members who submitted valid requests to Opt Out of the settlement; and (iii) the amount
24 owed to each Participating Settlement Class Member.

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

28 i. The Settlement Administrator shall be responsible for: calculating the number

1 of Pay Periods attributable to each Settlement Class Member and PAGA Group Member that will
2 be used to calculate their individual share of the NCSF and Individual PAGA Payment; calculating
3 the Class Member's share of the NCSF and Individual PAGA Payment; printing and mailing the
4 Notices to Class Members as directed by the Court; receiving and reporting the Opt-Outs and
5 objections submitted by Class Members; mailing Individual Gross Settlement Payments to
6 Participating Settlement Class Members and Individual PAGA Payments to PAGA Group
7 members; creating and issuing W-2s and Form 1099 – MISCs to Settlement Class Members; setting
8 up all necessary tax accounts and forwarding all payroll taxes and penalties to the appropriate
9 government authorities; and other tasks as the Parties mutually agree or the Court orders the
10 Settlement Administrator to perform. The Settlement Administrator shall keep the Parties' legal
11 counsel timely apprised of the performance of all Settlement Administrator responsibilities.

12 j. The Settlement Administrator, on the Defendant's behalf, shall have the
13 authority and obligation to make payments, credits and disbursements, including payments and
14 credits in the manner set forth herein, to Participating Settlement Class Members calculated in
15 accordance with the methodology set out in this Agreement and orders of the Court. Specifically,
16 no later than ten (10) business days after the deposit of Defendant's payment of the Gross
17 Settlement Amount into the QSF, the Settlement Administrator will mail the Individual Gross
18 Settlement Payments, the Individual PAGA Payments, the payment for the attorneys' fees and costs
19 to Class Counsel, any Service Payments to the Class Representatives if requested, the portion of
20 PAGA Award allocated to the LWDA, and will pay itself the Settlement Administration Costs. If
21 a Class Member Opts Out, and is a PAGA Group Member, the payment to that PAGA Group
22 Member shall be accompanied by a cover letter that specifies that the payment resolves the PAGA
23 Group's PAGA claims. This letter shall be drafted by Class Counsel and subject to the review and
24 approval of Defendant.

25 k. Any tax return filing required by payments made pursuant to this Agreement
26 shall be made by the Settlement Administrator. Any expenses incurred in connection with such
27 filing shall be a cost of administration of the settlement.

28 l. No person shall have any claim against Defendant or Defendant's Counsel, the

1 Named Plaintiff, Class Members, the Class, Class Counsel based on distributions and payments
2 made in accordance with this Agreement.

3 15. PAGA Allocation and Individual PAGA Payments. Subject to Court approval, the
4 Parties allocate a total of \$120,000 Dollars and Zero Cents (\$120,000.00) from the Gross Settlement
5 Amount to the PAGA Allocation. Pursuant to California Labor Code section 2699(i), the PAGA
6 Payment shall be divided as follows: seventy five percent (75%), or \$90,000, shall be paid to the
7 LWDA, and twenty-five percent (25%), or \$30,000, shall be distributed to the PAGA Group as
8 Individual PAGA Payments.

9 a. The Individual PAGA Payments shall be calculated as follows: “PAGA Pay
10 Periods” shall be the total of all pay periods worked by PAGA Group Members
11 for Defendant in California during the period of May 12, 2019 through the date
12 of preliminary approval of the Settlement (“PAGA Time Frame”). The dollars
13 per PAGA Pay Period (“PAGA Pay Period Value”) will be calculated by
14 dividing twenty-five percent (25%) of the PAGA Allocation by the PAGA Pay
15 Periods. The PAGA Pay Period Value will be multiplied by the number of pay
16 periods each PAGA Group Member worked for Defendant as a non-exempt
17 employee during the PAGA Time Frame to determine the distribution for each
18 Individual PAGA Payment.

19 16. Calculation of Individual Gross Settlement Payments. To determine the Gross
20 Individual Settlement Payment for each Participating Class Member:

21 a. The Net Class Settlement Fund (“NCSF”) shall be divided among all Class
22 Members based on the number of Workweeks each Class Member worked during the Class Period.
23 The Settlement Administrator shall divide the NCSF by the total number of Workweeks for all
24 Participating Class Members resulting in a value for each week worked by the Participating Class
25 Members during the Class Period (“Workweek Value”). The Settlement Administrator shall then
26 multiply the number of Workweeks for each Participating Class Member by the Workweek Value.
27 All Class Members will be entitled to payment for at least one (1) Workweek.

28 b. The Gross Individual Settlement Payment to each Participating Settlement Class

1 Member shall be allocated as follows: four-fifths (i.e., 80%) shall be attributed to penalties and
2 interest, to be reported on a 1099 Form; and one-fifth (i.e., 20%) shall be attributed to wages (“Wage
3 Component”), to be reported on a W-2 Form.

4 c. The Settlement Administrator shall determine the eligibility for, and the amounts
5 of, any Individual Settlement Payments under the terms of this Settlement Agreement. Any
6 disputes not resolved by the Settlement Administrator concerning the administration of the
7 Settlement will be resolved by the Tulare County Superior Court under the laws of the State of
8 California. Prior to any such involvement of the Court, counsel for the Parties will confer in good
9 faith to resolve the dispute without the necessity of involving the Court.

10 d. The Gross Individual Settlement Payments will be reduced by any required legal
11 deductions for each Class Member. All standard employer and employee payroll deductions will
12 be made by the Settlement Administrator for state and federal withholding taxes, as well as any
13 other applicable payroll deductions owed by the Participating Class Members. The Settlement
14 Administrator will issue a check and W-2 Form to each Class Member for the Wage Component.

15 e. No withholding shall be made on the interest and penalty portion of the Gross
16 Individual Settlement Payment (eighty percent of the payment amount). The Settlement
17 Administrator will issue a second check and IRS Form 1099 for the remaining interest and penalty
18 component, to the extent required by law.

19 f. The Settlement Administrator shall issue a single check containing a
20 Participating Settlement Class Member’s Individual Settlement Payment and Individual PAGA
21 Payment, except that any Settlement Class Member who submits a timely and valid Opt-Out will
22 receive a check only for his/her Individual PAGA Payment because he/she will not receive an
23 Individual Settlement Payment under this Settlement.

24 g. For any Class Member who opts out of the settlement, that amount will inure to
25 the Net Settlement Fund, increasing the per-workweek amount available to be distributed to the
26 Class.

27 h. The Settlement Administrator shall be responsible for issuing the payments and
28 calculating and withholding all required state and federal taxes.

1 17. Notice to Class Members. Notice of the Settlement shall be provided to all Class
2 Members using the following procedures:

3 a. Notice by First-Class Mail. Within ten (10) business days after receipt of the
4 Class List and Data, the Settlement Administrator shall mail the Notice to the Class Members via
5 first-class regular U.S. mail. The Settlement Administrator will, among other items, identify in the
6 Notice each individual Class Member's estimated Individual Gross Settlement Payment and the
7 employee's dates of employment and Pay Period Value derived from the Class Member's
8 applicable employment dates.

9 b. Opt-Out/Objection Deadline Date: Class Members will have forty-five (45)
10 calendar days from the mailing of the Notice to opt out of or object to the Settlement.

11 c. Procedure for Undeliverable Notices. Any Notices returned to the Settlement
12 Administrator as non-delivered on or before the Opt-Out/Objection Deadline Date shall be sent to
13 the forwarding address affixed thereto within five (5) business days. If no forwarding address is
14 provided, then the Settlement Administrator shall promptly attempt to determine a correct address
15 using a single skip-trace, computer or other search using the name, address and/or Social Security
16 number of the individual involved and shall then perform a single re-mailing within five (5)
17 business days. In the event the procedures in this paragraph are followed and the intended recipient
18 of a Notice still does not receive the Notice, the intended recipient shall be considered a
19 Participating Class Member and shall be bound by all terms of the Settlement and any Final
20 Judgment entered by the Court if the Settlement is approved by the Court, and his or her Individual
21 Settlement Payment shall be distributed to the *cy pres* beneficiary, namely, Legal Aid at Work.

22 d. Presumption Regarding Receipt of Notice Packet. It will be conclusively
23 presumed that if an envelope has not been returned within thirty (30) days of the mailing that the
24 Settlement Class Member received the Notice Packet.

25 e. Participating Class Members shall be bound by all terms of the Settlement and
26 any Final Judgment entered by the Court if the Settlement is approved by the Court.

27 18. Procedure for Objecting to or Opting Out of the Class Action Settlement. Each
28 Class Member will be fully advised of the Settlement, the ability to object to the Settlement, and

1 the ability to opt-out or request exclusion from the Settlement. The Notice Packet will inform the
2 Settlement Class Members of the Court-established deadlines for filing objections or requesting
3 exclusion from the Settlement in accordance with the following guidelines:

4 a. Procedure for Objecting. The Notice shall provide that those Class Members
5 who wish to object to the Settlement must mail a written statement of objection (“Notice of
6 Objection”) to the Settlement Administrator no later than the Opt-Out/Objection Deadline Date.
7 The postmark date of the mailing shall be deemed the exclusive means for determining that a Notice
8 of Objection is timely. The Notice of Objection must identify the Class Member’s full name,
9 address, email address (if known), telephone number, the case name and number; a statement of
10 the Class Member’s basis for any objections to the Parties’ settlement; a statement advising whether
11 the objecting Class Member plans to address the Court at the Settlement Fairness Hearing and any
12 legal briefs, papers or memoranda the objecting Class Member proposes to submit to the Court;
13 and, if the objecting Class Member is represented by counsel, the name and address of his or her
14 counsel. The Settlement Administrator shall promptly forward to Class Counsel and Defendants’
15 Counsel complete copies of all objections received, including the postmark dates for each objection.
16 Any objector may also appear at the Final Approval Hearing, in person or through an attorney
17 retained at his or her own expense, without filing a written objection, but such appearance shall not
18 be a prerequisite to the Court’s consideration of any timely-filed objection. Class Members may
19 withdraw their objections at any time. Class Members who submit an objection shall remain part of the Class
20 and be bound by the release provisions in this Agreement or the applicable release provisions in any order
21 granting Final Approval. At no time will any of the Parties or their counsel seek to solicit or otherwise
22 encourage Class Members to submit written objections to the Settlement or appeal from the Order and
23 Judgment. Class Counsel will not represent any Class Members with respect to any such objections to this
24 Settlement. Plaintiff and Defendant shall not be responsible for any fees, costs, or expenses incurred
25 by any Class Member and/or his or her counsel related to any objections to the Settlement.

26 b. Procedure for Opting Out. The Notice shall provide that those Class Members
27 who wish to opt out of the Settlement must mail a written signed statement expressing his or her
28 desire to opt-out from the parties’ settlement, and any such statement shall include the name (and

former names, if any), current address, telephone number of the Class Member and state that “I wish to opt out from the *Vasquez v. Saputo Cheese USA, Inc.* settlement.” Any Class Member who wishes to opt out of the settlement must submit a request to be excluded from the settlement to the Settlement Administrator postmarked no later than the Opt-Out/Objection Deadline Date. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether an Opt-Out has been timely submitted. Any Class Member who submits a valid and timely Opt-Out request shall no longer be a member of the Class; shall be barred from participating in this Settlement, as to the class claims; shall be barred from objecting to this Settlement; shall receive no benefit from this Settlement, except as to their Individual PAGA Payment; and will not be bound by this Agreement, or the Judgment, except as to the PAGA Claims. Any Class Member who does not Opt-Out by submitting a request for exclusion as described herein, (i) will be bound by the terms of this settlement and conditions of this Agreement, the Judgment, and the releases set forth herein; (ii) be deemed to be Participating Class Members for all purposes under this Agreement; and (iii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

c. Failure to Object. Absent good cause found by the Court, any Settlement Class Member who desires to object but fails to timely submit a written objection or appear in person to object at the Final Approval Hearing waives any right to object and will be foreclosed from making any objection to this Settlement. Any Settlement Class Member who does not timely and properly become a party of record by intervening or filing a motion to vacate the judgment waives any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure section 473, and/or extraordinary writs.

d. Responses to Objections. Counsel for the Parties may file a response to any objections submitted by Objecting Settlement Class Members at least five (5) court days before the date of the Final Approval Hearing.

e. Disputed Information on Notice. Each Class Member shall have an opportunity to dispute the employment dates and/or number of Workweeks or Pay Periods attributed to him or

her in the Notice, and must submit such a dispute to the Settlement Administrator on or before the Opt-Out/Objection Deadline Date. To the extent a Class Member disputes the employment dates or number of Workweeks or Pay Periods listed in the Notice, the Class Member may produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Settlement Administrator will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible Workweeks or Pay Periods that should be applied.

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

g. No Opt-Outs or Subsequent Lawsuits By Any Parties Represented by Class Counsel. Class Counsel agrees that Named Plaintiff waives his right to opt-out of or object to this Settlement.

19. Procedure for Payment of Individual Settlement Payments. The procedure for payment to Class Members of Individual Settlement Payments is as follows:

a. All Class Members who do not Opt-Out of the Settlement will receive an Individual Settlement Payment, distributed through the Settlement Administrator.

b. Individual Settlement Payments for Class Members shall be paid pursuant to the Workweek formula set forth herein and shall be mailed within ten (10) business days after Defendant delivers the Gross Settlement Amount to the Settlement Administrator for deposit into the Qualified Settlement Fund.

c. Individual Settlement Payments shall be made by check and shall be made payable to each Participating Class Member as set forth in this Stipulation.

d. Should any question arise regarding the determination of eligibility for, or the amounts of, any Individual Settlement Payment under the terms of this Agreement, Class Counsel

1 and Defendant's Counsel shall meet and confer in an attempt to reach agreement. If they cannot
2 agree, the Settlement Administrator shall make the final determination, and that determination shall
3 be conclusive, final and binding on all Parties, including all Class Members, subject to court
4 approval.

5 20. Non-Negotiated Settlement Checks/ Cy Pres Beneficiary. Any checks issued by the
6 Settlement Administrator to Participating Class Members shall be negotiable for one hundred and
7 eighty (180) calendar days. Those funds represented by settlement checks returned as undeliverable
8 and the funds which correspond with the settlement checks that are not negotiated within one
9 hundred and eighty (180) calendar days after issuance shall be cancelled, and the funds associated
10 with such cancelled checks, plus any accrued interest that has not been distributed, shall be tendered
11 by the Settlement Administrator to the *cy pres* beneficiary.

12 21. Certification By Settlement Administrator. Upon completion of administration of
13 the distributions, the Settlement Administrator shall provide written certification of such
14 completion to the Court and counsel for all Parties. The Settlement Administrator shall attach any
15 objections to its certification and Class Counsel shall file the certification with the Court at least 14
16 days prior to the Final Approval Hearing.

17 22. Final Settlement Approval Hearing and Entry of Final Judgment. Upon expiration
18 of the Opt-Out/Objection Deadline Date, Class Counsel shall submit, subject to Defendant's
19 review, the proposed Final Judgment and a motion for final approval of the settlement requesting
20 the Court (i) approve the Settlement, adjudging the terms thereof to be fair, reasonable and
21 adequate, and directing consummation of its terms and provisions; (ii) approve Class Counsel's
22 application for an award of attorneys' fees and reimbursement of litigation costs and expenses, any
23 Service Payment to Plaintiff, and the payment to the Settlement Administrator for costs of
24 administering the settlement; (iii) enter judgment approving settlement, thereby permanently
25 barring all Class Members from prosecuting any Released Claims against any of the Released
26 Parties; and (iv) dismiss this Action with prejudice. With the Court's permission, a hearing ("Final
27 Fairness Hearing") shall then be conducted to determine final approval of the Settlement along with
28 the amount properly payable for: (i) Attorneys' Fees and Costs Award, (ii) any Service Payment,

1 if requested, and (iii) Settlement Administration Costs. After entry of the Final Judgment, the Court
2 shall have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and
3 enforcement of the terms of the settlement, (ii) settlement administration matters, and (iii) such
4 post-Final Judgment matters as may be appropriate under court rules or as set forth in this
5 Agreement.

6 23. Named Plaintiff and Defendant's Option to Nullify the Agreement. The Parties
7 agree that the Class Agreement is premised on information based on data provided by Defendant
8 to Plaintiff reflecting that the estimated number of Workweeks attributable to Class Members is
9 approximately 400,000. If, at any time between now and the date upon which the calculations
10 concerning the estimated Individual Settlement Payments are made, the number of Workweeks
11 attributable to Class Members is more than seven-and-a-half percent (7.5%) higher than 400,000
12 for the Class Period, the Gross Settlement Amount shall increase by that amount, i.e., if the number
13 of Workweeks increases by 7.50%, the GSA will not increase, but if the number of Workweeks
14 increases by 7.51% the GSA will increase by 7.51%.

15 The Parties further agree that if more than seven-and-a-half percent (7.5%) of Class
16 Members opt-out of this Agreement, Defendant shall have, in its sole discretion, the option to
17 terminate this Agreement. If Defendant decides to void this Agreement pursuant to this term, then
18 this Agreement and conditional class certification shall be considered void, and neither this
19 Agreement, conditional class certification, nor any of the related negotiations or proceedings, shall
20 be of any force or effect, and the Parties shall stand in the same position, without prejudice, as if
21 this Agreement had been neither entered into nor filed with the Court.

22 24. Nullification of Settlement Agreement. In the event: (i) the Court does not enter
23 the Preliminary Approval Order; (ii) the Court does not finally approve the Settlement as provided
24 herein; (iii) the Court does not enter a Final Judgment; (iv) the LWDA does not approve the
25 settlement; (v) Defendants exercise their option to nullify the Agreement based on an excessive
26 number of opt-outs, as describe in the above paragraph; or, (vi) the Settlement does not become
27 final for any other reason, this Settlement Agreement shall be null and void. Any order or judgment
28 entered by the Court in furtherance of this settlement shall be treated as void, and the Stipulations

1 and Recitals contained herein, except for Section III, Paragraph 27, *infra*, shall be of no force or
2 effect and shall not be treated as an admission by the Parties or their Counsel. In such a case, the
3 Parties and any funds to be awarded under this settlement shall be returned to their respective
4 statuses as of the date and time immediately prior to the execution of this Agreement, and the Parties
5 shall proceed in all respects as if this Settlement Agreement had not been executed, except that any
6 fees already incurred by the Settlement Administrator shall be paid in equal parts by Named
7 Plaintiff and Defendant, but if Defendant elects to nullify the Agreement pursuant to Paragraph 23
8 *supra*, then the fees incurred by the Settlement Administrator shall be paid entirely by Defendant.
9 If the Settlement is voided or fails for any reason, Plaintiff and Defendant will have no further
10 obligations under the Settlement, including any obligation by Defendant to pay the Settlement
11 Amount, or any amounts that otherwise would have been owed under this Settlement, and the
12 Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

13 25. Notice to LWDA. Pursuant to California Labor Code section 2699(l), Class Counsel
14 shall have the obligation to provide notice to the California Labor and Workforce Development
15 Agency in compliance with Labor Code section 2699(l), including but not limited to this Agreement
16 and any judgment or order pertaining to the Court's approval of this Agreement.

17 26. Publicity/Non-Disclosure.

18 Plaintiff, Class Counsel, and Defense Counsel separately agree that, until the Motion
19 for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate
20 and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the
21 terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation,
22 association, government agency, or other entity except: (1) to the Parties' attorneys, accountants,
23 or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a
24 related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in
25 response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state
26 or federal government agency. Each Party agrees to immediately notify each other Party of any
27 judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel,
28 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or

1 other communication, before the filing of the Motion for Preliminary Approval, any with third party
2 regarding this Agreement or the matters giving rise to this Agreement except to respond only that
3 “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s
4 communications with Class Members in accordance with Class Counsel’s ethical obligations owed
5 to Class Members.

6 27. Dispute Resolution as Between the Parties. Except as otherwise set forth herein, all
7 disputes concerning the interpretation, calculation or payment of settlement claims, or other
8 disputes regarding compliance with this Agreement shall be resolved as follows:

9 a. If the Named Plaintiff, or Class Counsel, on behalf of the Named Plaintiff or any
10 Settlement Class Member, or Defendant’s Counsel, on behalf of Defendant, at any time believes
11 that the other Party has breached or acted contrary to the Agreement, that Party shall notify the
12 other Party in writing of the alleged violation.

13 b. Upon receiving notice of the alleged violation or dispute, the responding Party
14 shall have five (5) business days to correct the alleged violation and/or respond to the initiating
15 Party with the reasons why the party disputes all or part of the allegation.

16 c. If the response does not address the alleged violation to the initiating Party’s
17 satisfaction, the Parties shall negotiate in good faith for up to five (5) business days to resolve their
18 differences.

19 d. If the Parties are unable to resolve their differences informally, the Parties agree
20 to seek the help of mediator Hon. Amy Hogue (Ret.) to resolve any dispute. The Parties shall bear
21 their own attorneys’ fees and costs during his period and in connection with any dispute resolution
22 process. If the mediation is unsuccessful, either Party may file an appropriate motion for
23 enforcement with the Court. The briefing of such motion shall not exceed ten (10) pages (excluding
24 exhibits).

25 e. Reasonable attorneys’ fees and costs for work done in resolving a dispute under
26 this Section, including costs of mediation, may be recovered by any party that prevails under the
27 standards set forth within the meaning of applicable law.

28 28. No Retaliation. Defendant shall not take any adverse action against any Class

1 Member because of the Action or because of the existence of, and/or participation in, the
2 Settlement, or because they choose to benefit from the Settlement or to object to the Settlement.
3 Defendant shall not take action to discourage Class Members from participating in the Settlement.

4 29. Notices. Unless otherwise specifically provided herein, all notices, demands or other
5 communications regarding this Agreement or given hereunder shall be in writing and shall be
6 deemed to have been duly given as of the third business day after mailing by United States
7 registered or certified mail, return receipt requested, addressed:

8 To the Settlement Class:

9 COHELAN KHOURY & SINGER

10 Michael D. Singer

msinger@ckslaw.com

11 Jeff Geraci

jgeraci@ckslaw.com

12 605 C Street, Suite 200

13 San Diego, CA 92101

14 Telephone: (619) 595-3001

15 To Defendant:

16 SUTTON HAGUE LAW CORPORATION

17 S. Brett Sutton

brett@suttonhague.com

18 Jared Hague

jared@suttonhague.com

19 5200 N. Palm Avenue, Suite 203

20 Fresno, California 93704

Telephone: (559) 325-0500

21 30. Exhibits and Headings. The terms of this Agreement include the terms set forth in
22 any attached exhibits, which are incorporated by this reference as though fully set forth herein. Any
23 exhibits to this Agreement are an integral part of the settlement. The descriptive headings of any
24 paragraphs or sections of this Agreement are inserted for convenience of reference only and do not
25 constitute a part of this Agreement.

26 31. Interim Stay of Proceedings. The Parties agree to the Court staying and holding all
27 proceedings in the Action, except such proceedings necessary to implement and complete the
28 settlement, in abeyance pending the Final Approval Hearing to be conducted by the Court.

1 32. Tolling of 5-Year Deadline. The Parties agree and hereby stipulate to toll and extend
2 the five-year deadline to bring this case to trial, as set forth in Code of Civil Procedure section
3 583.330, for the period of time from March 30, 2023 through and including the later of the
4 following dates: (a) 45 calendar days following the Court's entry of an order denying, in its entirety
5 and with prejudice, Plaintiff's Motion for Preliminary Approval; or (b) if the Court grants Plaintiff's
6 Motion for Preliminary Approval, 45 calendar days following the Court's entry of an order denying,
7 in its entirety and with prejudice, Plaintiff's Motion for Final Approval; or (c) if there are objections
8 to this Settlement and subsequent appeals, then 45 calendar days after those appeals have been
9 resolved and this Action is remanded to the Court. The Parties agree and stipulate that this clause
10 regarding the tolling of the 5-year deadline shall remain in full force and effect even if this
11 Agreement is nullified and/or found void for any reason whatsoever and/or is revoked by any Party.

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

14 34. Entire Agreement. This Agreement and any attached exhibits constitute the
15 entire agreement among these Parties, and no oral or written representations, warranties or
16 inducements have been made to any Party concerning this Agreement or its exhibits other than the
17 representations, warranties and covenants contained and memorialized in such documents.

18 35. Authorization to Enter into Settlement Agreement. Counsel for all Parties
19 warrant and represent that they are expressly authorized by the Parties whom they represent to
20 negotiate this Agreement and to take all appropriate action required or permitted to be taken by
21 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents
22 required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate
23 with each other and use their best efforts to affect the implementation of the settlement. In the
24 event the Parties are unable to reach agreement on the form or content of any document needed to
25 implement the settlement, or on any supplemental provisions that may become necessary to
26 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
27 such disagreement. The person(s) signing this Agreement on behalf of Defendant represent and
28 warrant that he or she is authorized to sign this Agreement on the Defendant's behalf.

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

3 37. California Law Governs. All terms of this Agreement and the exhibits hereto
4 shall be governed by and interpreted according to the laws of the State of California.

5 38. Counterparts. This Agreement may be executed in one or more counterparts.
6 All executed counterparts and each of them shall be deemed to be one and the same instrument,
7 provided that counsel for the Parties to this Agreement shall exchange among themselves original
8 signed counterparts.

9 39. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this
10 Settlement is a fair, adequate and reasonable Settlement of this Action and have arrived at this
11 Settlement after extensive arms-length negotiations, taking into account all relevant factors, present
12 and potential.

13 40. Jurisdiction of the Court. The Court shall retain jurisdiction with respect to the
14 interpretation, implementation and enforcement of the terms of this Agreement and all orders and
15 judgments entered in connection therewith, and the Parties and their counsel hereto submit to the
16 jurisdiction of the Court for purposes of interpreting, implementing and enforcing the Settlement
17 embodied in this Agreement and all orders and judgments entered in connection therewith.

18 41. Cooperation and Drafting. Each of the Parties has cooperated in the drafting and
19 preparation of this Agreement. Hence, in any construction made to this Agreement, the same shall
20 not be construed against any of the Parties.

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

25 ///

26 ///

27 ///

28 ///

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

NAMED PLAINTIFF

Dated: Oct.16, 2023

By: Don Vasquez
DON VASQUEZ

DEFENDANT

SAPUTO CHEESE USA, INC.

Dated: Oct - 10, 2023

By: Frank M. Gush

Name: Frank Guido

Title: President

SAPUTO CHEESE USA, INC.

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

TO: All non-exempt, hourly employees who worked in California for Saputo Cheese USA, Inc. (“Saputo”) any time from May 27, 2016, to March 30, 2023

*A court authorized this Notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected whether you act or don’t act.*

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS	
Do Nothing and Receive a Payment	You do not have to do anything to receive a Settlement payment Your Individual Settlement Payment will be mailed to you automatically after the Court grants final approval of the Settlement. (No. 11 below). <i>The Administrator <u>must</u> have your current address to mail your payment</i>
Exclude Yourself (“Opt Out”)	If you do not want to participate in the Settlement, you may exclude yourself, or “opt out.” If you opt out, you will not receive a Settlement payment, and you will keep all rights you may have against Saputo. (No. 6 below). If you exclude yourself from the Settlement, you will still receive your share of the PAGA Payment and release your PAGA claims.
Object	You can object to the Settlement if you think it is not fair by sending a written objection to the Settlement Administrator or by appearing in person at the time of the Final Approval Hearing. (No. 7 below).
Change Your Address	If your address is different than the address this Notice was mailed to, you must notify the Administrator of your correct address. A Change of Address Form and pre-printed return envelope are included with this Notice. Your Settlement Share payment will be mailed to the address on file with the Administrator.

**THIS NOTICE EXPLAINS YOUR RIGHTS AND THE DEADLINES TO EXERCISE THEM
DEFENDANT SUPPORTS THE SETTLEMENT AND WILL NOT RETALIATE AGAINST
ANY CLASS MEMBER FOR EXERCISING THE RIGHTS DESCRIBED IN THIS NOTICE**

1. What is a Class Action? Why Did I Get This Notice?

In a class action, one or more people called Class Representatives, in this case, Don Vasquez (“Plaintiff”), sue a Defendant, in this case, Saputo Cheese USA, Inc. (“Saputo”) on behalf of themselves and other people whom they allege have similar claims. (the “class.”) You are receiving this Notice because Saputo’s records show you worked for the Company in California as a non-exempt employee sometime during the period May 27, 2016 to March 30, 2023 (“Class Period”). Each person receiving this notice is believed to be a “Class Member.”

2. What is this Case About?

Plaintiff filed a lawsuit on May 27, 2020 in Tulare County Superior Court (Case No. VCU282978), seeking restitution, penalties, interest, costs, and attorneys’ fees, for the alleged failure to provide: all earned wages, including final wages; rest and meal periods; accurate wage statements; and reimbursement for business expenses. Plaintiff filed a second lawsuit on August 6, 2020 seeking civil penalties under the California Private Attorneys General Act (“PAGA”) based on the violations alleged above. (Case No. VCU283853). The two lawsuits have been joined together for settlement. (the “Lawsuit”).

Saputo denies all claims made in the Lawsuit and contends it has complied with all laws at all times. The Court has not decided either side is right and the Parties agreed to settle only to avoid the time and costs of litigation.

3. Am I a Class Member or PAGA Group Member?

You are a Class Member if you worked for Saputo in California any time from May 27, 2016 to March 30, 2023 as a non-exempt, or hourly, employee. As a Class Member, you will receive a payment because of this Settlement unless you opt out of the class as described below.

PAGA Group members worked for Saputo in California any time from May 12, 2019 through March 30, 2023 (“PAGA Period”) as a non-exempt, or hourly, employee. If you are a PAGA Group member, you will receive a payment for the PAGA portion of the Settlement whether or not you opt out of the class settlement.

4. Who are the Attorneys for the Class?

COHELAN KHOURY & SINGER

Michael D. Singer/Jeff Geraci
605 C Street, Suite 200
San Diego, California 92101
Telephone: (619) 595-3001
matlas@ckslaw.com

LEBE LAW, APLC

Jonathan M. Lebe/Zachary Gershman
777 S. Alameda Street, Second Floor
Los Angeles, California 90021
Telephone: (213) 358-7046

The Court decided Plaintiff’s attorneys are qualified to represent the Class in this Settlement. You do not need to hire an attorney because Class Counsel represent you, but you may hire your own attorney at your own expense.

5. What Are My Options?

DO NOTHING: If you do nothing, you will receive payment and be bound by the release of Class Action claims stated in this Notice and Settlement.

OPT OUT: If you “opt out,” you remove yourself from the Class Action. If the Court grants final approval of the Class Action Settlement, you will **not** receive any payment, except a share of the PAGA award, if eligible. This is the only way to retain your right to sue Saputo individually for claims covered by the Settlement.

OBJECT: If you want to object to any aspect **OF** the proposed Settlement you can write the Settlement Administrator. If you want to object then you must **not** opt out.

6. How Do I Opt Out or Exclude Myself from the Class Action Settlement?

If you do not want to remain in the Class Action Settlement, then you must sign and mail a written request, postmarked no later than _____, 2023 [45) days after Notice mailed] to the Settlement Administrator:

Saputo Class Action Settlement Administrator c/o XXX, Inc.
P.O. BOX _____
Irvine, California 9 _____

The opt-out request must state in substance: “I want to opt out of the Settlement of the case *Vasquez v. Saputo Cheese USA, Inc.* settlement. I understand I will not receive a Settlement Payment described in the Notice of Class Action Settlement.” The request must state your full name and address, and must be signed by you.

Opt out requests postmarked after _____, 2023, or that are incomplete or unsigned, will be rejected, and you will be bound by the Settlement and will receive your Settlement payment. Even if you return a valid and timely opt-out request, you will still receive a share of the PAGA Penalties and will release PAGA claims.

7. How Do I Object to the Class Action Settlement?

If you do not opt out, and believe the Settlement should not be finally approved by the Court, you may object in writing or in person. Written objections must state your name, current address, telephone number, dates of employment in California by Saputo, reason(s) for the objection, and the case name and number, *Vasquez v. Saputo Cheese USA, Inc.* Case No. VCU282978. Include any documents which support your objection. Written objections must be mailed to the Settlement Administrator at the address above and served on all counsel listed in this Notice on or before [45 days after notice mailed]. You may appear at the Final Approval Hearing to object orally even if you have not objected in writing.

If the Court approves the Settlement you will be bound by all Settlement terms, even if you objected, in the same way as Class Members who do not object.

8. How Does This Settlement Affect My Rights? What are the Released Claims?

After the Court approves the Settlement, unless you exclude yourself, you are staying in the Class and cannot sue, continue to sue, or be part of any other lawsuit against Saputo for the claims released in this Action. You will be bound by the judgment in this Action and you will “give up” or release:

All claims that were or could have been asserted in this Lawsuit or that were based on or arose out of the facts alleged in this Lawsuit, including, claims for failure to provide: minimum, overtime, reporting time, and final wages; compliant rest and meal periods; accurate wage statements; reimbursement of business-related expenses; along with claims for unfair business practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*); and, civil penalties under Labor Code §§ 2698, *et seq.* based on the violations alleged above. The parties being released are Saputo Cheese USA, Inc., its present and former parents, subsidiaries, affiliates, insurers, successors, assignees, and related entities and their agents.

9. What is the Settlement Amount?

Saputo will pay a Gross *Settlement* Amount of \$2,400,000. The Gross Settlement Amount includes all Settlement payments to Class Members and, subject to Court approval: (a) Settlement Administration Expenses not to exceed \$17,500, (b) Class Representative Service Payment up to \$10,000 to compensate Plaintiff for services undertaken on behalf of the Class, (c) Class Counsel Fees up to \$800,000 (one-third of the Gross Settlement), (d) Class Counsel Costs up to \$35,000, (e) \$120,000 for civil penalties - \$90,000 (75%) paid to California’s Labor Workforce and Development Agency (“LWDA Payment”); and, \$30,000 (25%) paid to Class Members who worked from May 12, 2019 to March 30, 2020. The exact amount of these deductions from the Gross Settlement is subject to court approval.

10. How Much Can I Expect to Receive from the Settlement?

After deducting Court-approved amounts for the payments above, the remaining portion is the “Net Class Settlement Fund” (“NCSF”) estimated at \$1,417,500. Individual Gross Settlement Payments shall be distributed to all Class Members who do not request to be excluded (“Participating Class Members”). The Settlement Administrator will calculate Individual Gross Settlement Payments by dividing the total number of weeks all Class Member worked during the Class Period by the NCSF and multiplying that number by the number of weeks each Class Member worked during the Class Period.

Saputo’s records show you worked _____ Workweeks from May 27, 2016 through March 30, 2023.

Based on this information, you are estimated to receive a payment of <<_____>>, less withholdings, if you do not opt out.

Saputo’s records show you worked _____ Pay Periods during the PAGA Period, May 12, 2019 to March 30, 2023

Based on this information, you are estimated to receive PAGA penalties of <<_____>>. You will receive the PAGA payment whether or not you opt out of the class settlement.

Settlement Payments are allocated 80% to penalties and interest and 20% to wages. You will receive a Form 1099 for the penalty and interest amounts and a Form W-2 for the wage amounts from the Settlement Administrator.

If you believe the information your Settlement or PAGA Payment is based on is incorrect, you must return a written statement signed by you with any information or documents which support your position, with the case name and number, *Vasquez v. Saputo Cheese USA, Inc.* Case No. VCU282978. The Settlement Administrator will

use Saputo's records and the information you provide to resolve any disputes. The Administrator's determination will be final and binding, subject to Court review.

11. When Can I Expect to Receive a Settlement Payment?

You do not need to do anything to receive a Settlement Payment. If you do not opt-out, and there are no objections submitted, your share of the Settlement will be mailed to you about 40 days after the Court grants final approval of the Settlement and enters judgment. **Your share of the Settlement will be mailed to the address the Administrator has on file for you, which is the address where this Notice was mailed. If this address is not right, or if you move after you receive this Notice, you must inform the Settlement Administrator.**

12. The Final Approval Hearing.

The Court will hold a Final Approval Hearing on **xxxx**, 2024, at __:00 a.m., in Department 2 of the Tulare County Superior Court, located at 221 South Mooney Blvd., Visalia, California, to determine whether the Settlement is fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and reimbursement of litigation costs, the Class Representative Service Payment, and the Settlement Administrator's fees and expenses.

The Court may reschedule the Final Approval Hearing without further notice to Class Members, but, any Class Member who has submitted a written objection will be notified by Class Counsel of any rescheduling of the date of the Final Approval Hearing. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend. Should the Court grant Final Approval of the Settlement and enter judgment, the Court's Order approving the Settlement and the Judgment may be viewed on the Administrator's website, www._____.com.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. Please refer to the *Vasquez v. Saputo Cheese Class Action Settlement*.

This Notice does not contain all the proposed terms of settlement or all details of court proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Tulare County Superior Court at the address given above, or you may ask for a free copy from Class Counsel. Materials also appear on the Settlement Administrator's website: www._____.com, and at the Court's website: tulare.courts.ca.gov

PLEASE DO NOT CALL THE COURT, THE JUDGE, DEFENDANT'S SUPERVISORS, MANAGERS, OR ATTORNEYS ABOUT THIS SETTLEMENT

- To receive your Settlement payment as a Participating Class Member, you must not return an opt out request, and your current mailing address must be on file with the Administrator. All Class Members who worked any time during the PAGA Period, will receive a share of the PAGA Payment and release all PAGA claims.
- Settlement Share and PAGA Payment checks will be void 180 days after issued if not deposited or cashed. After 180 days, the Settlement Administrator will forward the unclaimed amount to Legal Aid at Work, legalaidatwork.org, a non-profit organization providing legal services to California workers. If your check is lost or misplaced, contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2