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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

EDWIN MOLINA, an individual,

Plaintiff,

vs.

SBR EXPRESS, INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 20STCCV46159

CLASS AND PAGA ACTION COMPLAINT

[Assigned to Hon. Elihu M. Berle]

**REVISED JOINT STIPULATION OF
CLASS ACTION SETTLEMENT AND
RELEASE**

Complaint Filed: December 3, 2020

REVISED CLASS ACTION SETTLEMENT AGREEMENT AND STIPULATION

1 This Class Action Settlement Agreement and Stipulation is entered into between Plaintiff
2 Edwin Molina (“Plaintiff”), and Defendant SBR Express, Inc. (“Defendant” or SBR”) (collectively
3 with Plaintiff, the “Parties”).

4 **DEFINITIONS**

5 1. Action. The “Action” means the class action lawsuit entitled *Molina v. SBR*
6 *Express, Inc.*, filed in the Superior Court of California, Los Angeles County, as case number
7 20STCV46159.

8 2. Agreement. “Agreement” shall refer to the instant Class Action Settlement
9 Agreement and Stipulation.

10 3. Attorneys’ Costs. “Attorneys’ Costs” refers to the amount to be reimbursed
11 for Class Counsel’s litigation costs and expenses accrued in furtherance of the Action, and shall not
12 exceed a total of Fifteen Thousand Dollars and Zero Cents (\$15,000.00).

13 4. Attorneys’ Fees. “Attorneys’ Fees” refers to the amount to be awarded to
14 Class Counsel for the work it has performed in furtherance of the Action, and shall not exceed
15 Seventy Nine Thousand Five Hundred Eighty Three Dollars and Thirty-Three Cents (\$79,583.33),
16 which is one-third (33 1/3%) of the Total Settlement Amount.

17 5. SBR. “SBR” shall mean, SBR Express, Inc., its subsidiaries, acquired and
18 related entities.

19 6. Class Counsel. “Class Counsel” shall mean, collectively, Aanand Mehtani
20 of MEHTANI LAW OFFICES, and Arnab Banerjee of BANNER LAW GROUP, P.C.

21 7. Class Members, and the Class. “Class Members” (individually, “Class
22 Member”) are all current and former employees of SBR who were or are employed in the State of
23 California as hourly or non-exempt employee during the Class Period.

24 8. Class Notice. “Class Notice” means the Notice of Class Action and PAGA
25 Settlement mutually agreed upon by the Parties and approved by the Court to be sent to the Class
26 Members and PAGA Members following preliminary approval that includes the scope of release
27 language for Settled Claims and Settled PAGA Claims, notifies Class Members and PAGA
28 Members of the Settlement, explains the Class Members’ options, including how Class Members

1 may opt out or object to the Settlement, and explains the facts and methods based on which the
2 Class Members' and PAGA Members' estimated settlement payments are calculated, substantially
3 in the form attached hereto as **Exhibit A**.

4 9. Class Period. "Class Period" means December 3, 2016 to the date that the
5 Court preliminarily approves the Settlement.

6 10. Complaint. "Complaint" refers to the operative complaint in the Action.

7 11. Court. "Court" refers to the Los Angeles Superior Court or other court that
8 will approve the Agreement.

9 12. Day. "Day" or "days" refers to a calendar day(s) unless otherwise stated. If
10 any designated date or deadline falls on a weekend or holiday, the designated date or deadline will
11 occur on the next business day.

12 13. Defendants. "Defendants" means, collectively unless otherwise stated, SBR
13 Express, Inc.

14 14. Effective Date. "Effective Date" of this Agreement means the first business
15 day following the last of the following occurrences: (i) if no timely objections are filed, or are
16 withdrawn prior to final approval, the date upon which the Court enters an order granting final
17 approval of the Joint Stipulation of Class Action Settlement and Release; or (ii) if a timely
18 objections are filed and not withdrawn or an appeal is filed, then the date of final resolution of that
19 appeal (including any requests for rehearing and/or petitions for *certiorari*), resulting in final and
20 complete judicial approval of the Settlement in its entirety, with no further challenge to the
21 Settlement being possible.

22 15. Final Judgment. "Final Judgment" means the judgment entered and filed by
23 the Court that: (1) finally approves this Agreement; and (2) awards and orders the payment of all
24 required amounts pursuant to the terms of this Agreement (approved Attorneys' Fees, Attorney's
25 Costs, Settlement Payments to Class Members and PAGA Payments to PAGA Members, *etc.*). The
26 Final Judgment will constitute a binding and final resolution, have full *res judicata* effect, and
27 discharge Defendants and Released Parties from liability for any and all claims by Named Plaintiff,
28

1 all Settlement Class Members as to all Settled Claims, and all PAGA Members and the State of
2 California as to all Settled PAGA Claims as set forth in this Agreement.

3 16. Final Approval Hearing. “Final Approval Hearing” means the hearing at
4 which the Court shall consider the motion for final approval of this Settlement and determine
5 whether to fully and finally approve the fairness and reasonableness of this Settlement and
6 Agreement, and enter the Final Approval Order and Final Judgment.

7 17. Final Approval Order. Means the order entered and filed by the Court
8 granting final approval of the Settlement and entry of the Final Judgment.

9 18. Funding Date. “Funding Date” means the date on which Defendants will
10 deposit the Total Settlement Amount into an account established by the Settlement Administrator,
11 which shall be no later than fourteen (14) business days after the Effective Date.

12 19. General Release Payment. “General Release Payment” refers to the amount
13 of Ten Thousand Dollars (\$10,000) to Named Plaintiff in exchange for their general release of all
14 known and unknown claims against Defendant.

15 20. Last Known Address. “Last Known Address” means the most recently
16 recorded mailing address for a Class Member and/or PAGA Member contained in Defendants’
17 payroll records.

18 21. Total Settlement Amount. “Total Settlement Amount” means a maximum
19 total payment of Two Hundred and Thirty-Eight Thousand Seven Hundred and Fifty Dollars and
20 Zero Cents (\$238,750.00), payable by Defendants under this Agreement. The Total Settlement
21 Amount includes all: (1) payments to Class Members and payments to PAGA Members; (2)
22 Attorneys’ Fees; (3) Attorney’s Costs; (4) Settlement Administration Costs; (5) LWDA’s portion
23 of the PAGA Allocation; and (6) Service Payment. There will be no reversion of the Class
24 Settlement Amount to Defendants. Except as otherwise stated in this Agreement, Defendants shall
25 not be required to pay any amounts above the Total Settlement Amount to effectuate this
26 Agreement, other than its share of payroll taxes in connection with the wages portion of the
27 Settlement, including FICA, FUTA and SDI contributions (which it will pay in addition to the Total
28

Settlement Amount). Each of the Class Members and PAGA Members shall be responsible for paying any additional taxes due on their settlement payment.

22. Named Plaintiff. “Named Plaintiff” means Plaintiff Edwin Molina.

23. Net Distribution Fund. “Net Distribution Fund” means the Total Settlement Amount, less the amount that the Court awards for: (1) the PAGA Allocation; (2) Attorneys’ Fees; (3) Attorneys’ Costs; (4) Settlement Administration Costs; and (5) Service Payment to Named Plaintiff.

24. Objection. “Objection” means an objection to the Settlement that a Settlement Class Member submits in writing to the Settlement Administrator. Each “Objection” must (1) contain the name, address, and telephone number of the Settlement Class Member objecting and the case name and number of the Action; (2) be signed by the Settlement Class Member; (3) be postmarked or fax stamped on or before the Response Deadline and returned to the Settlement Administrator at the specified address or fax number; and (4) give the legal and factual basis for their objection.

25. Opt Out Request. “Opt Out Request” means a request by a Class Member to be excluded from the Settlement of Settled Claims. Each “Opt Out Request” must (1) contain the name, address, and telephone number of the Class Member requesting exclusion and the case name and number of the Action; (2) be signed by the Class Member; (3) be postmarked or fax stamped on or before the Response Deadline and returned to the Settlement Administrator at the specified address or fax number; and (4) contain a statement something substantially similar to:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT OF CLASS CLAIMS IN THE *EDWIN MOLINA V. SBR EXPRESS, INC.* LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT FROM THE SETTLEMENT OF THE LAWSUIT. I UNDERSTAND THAT THE PAGA CLAIM WILL STILL BE RELEASED AND SETTLED.”

26. Parties. “Parties” shall mean Named Plaintiff, individually on behalf of themselves and on behalf of all Class Members, PAGA Members and interests of the LWDA, and Defendants.

1 27. PAGA Allocation. “PAGA Allocation” refers to the amount of Ten
2 Thousand Dollars (\$10,000) which is allocated to the settlement of the Settled PAGA Claims.

3 28. PAGA Members. “PAGA Members” means all Class Members who are
4 employed or have been employed by Defendant in the State of California during the PAGA Period.

5 29. PAGA Period. “PAGA Period” means the period from December 3, 2019
6 through the date of the Preliminary Approval Order.

7 30. Preliminary Approval Order. “Preliminary Approval Order” is the Order
8 entered and filed by the Court that preliminarily approves the terms and conditions of this
9 Agreement, including approval of the Parties’ Agreement that specifies the content of notice and
10 manner in which notice will be provided to the Class and responded to by the Class.

11 31. Released Parties. “Released Parties” include Defendants and each of their
12 officers, directors, members, partners, owners, shareholders, employees, former employees, agents,
13 servants, attorneys, assigns, affiliates, independent contractors, volunteers, predecessors,
14 successors, parent companies and organizations, insurers, and any and all other persons, firms and
15 corporations in which Defendants may have an interest.

16 32. Response Deadline. The “Response Deadline” means the day that is forty-
17 five (45) days after the date the Class Notice is mailed to Class Members via First-Class U.S. Mail
18 and is the deadline to submit an Opt Out Request, Objection, and/or Dispute.

19 33. Service Payment. “Service Payment” refers to the amount of Five Thousand
20 Dollars (\$5,000) to Named Plaintiff in exchange for their service in furtherance of the Action.

21 34. Settlement. “Settlement” shall refer to the agreement of the Parties to settle
22 the claims as set forth and embodied in this Agreement.

23 35. Settlement Administrator. “Settlement Administrator” shall mean ILYM
24 Group, Inc. a neutral administrator as mutually chosen by the Parties and approved by the Court.

25 36. Settlement Administration Costs. “Settlement Administration Costs” refers
26 to the amount to be paid to the Settlement Administrator for the costs of administering this
27 Settlement, not to exceed Ten Thousand Dollars (\$10,000).

1 37. Settled Claims. “Settled Claims” are all claims, charges, complaints, liens,
2 demands, causes of action, obligations, damages and liabilities, that arise during the Class Period
3 that each Class Member had, now has, or may hereafter claim to have against the Released Parties
4 and that were asserted in the Complaint. The Settled Claims specifically include, but are not limited
5 to, claims for all alleged violations of the Labor Code and Wage Order cited in the Complaint as
6 well as claims for: : (1) Unfair Competition (Bus. & Prof. Code § 17200, *et seq.*); (2) Failures to
7 Pay Minimum & Overtime Wages (Lab. Code §§ 1194 & 1194.2); (3) Waiting Time Penalties
8 (Lab. Code § 203); (4) Wage Statement Penalties (Lab. Code § 226); (5) Failure to Reimburse
9 Business Expenses (Lab. Code § 2802); (6) Penalties Under the Labor Code Private Attorney
10 General Act (“PAGA”)

11 38. Settled PAGA Claims. “Settled PAGA Claims” means any of the Settled
12 Claims that may serve as a basis for any claim under the Private Attorneys General Act (“PAGA”)
13 for any of the alleged California Labor Code violations in the Complaint. Specifically, these
14 include violations for California Labor Code sections 201, 202, 203, 204, 225, 226(a), 226(e),
15 226.2, 226.7, 1194, 1194.2 and 2802.

16 39. Settlement Class/Settlement Class Member(s). “Settlement Class” or
17 “Settlement Class Member(s)” means all Class Members who have not timely and validly
18 submitted an Opt Out Request.

19 40. Settlement Proceeds Distribution Deadline. “Settlement Proceeds
20 Distribution Deadline” means a date that is fourteen (14) days after the Total Settlement Amount
21 has been deposited by Defendants.

22 41. Updated Address. “Updated Address” means a mailing address that was
23 updated by a reasonable address verification measure of the Settlement Administrator or by an
24 updated mailing address provided by the United States Postal Service for a Class Member or PAGA
25 Member.

1 **RECITALS**

2 42. The Action was filed on December 3, 2020 in the Superior Court of
3 California, County of Los Angeles. The Complaint alleges various wage and hour claims on behalf
4 of drivers who worked for Defendants from December 3, 2016.

5 43. Defendants filed an answer, and denied all allegations and claims asserted in
6 the Complaint on July 22, 2019.

7 44. Defendants and Class Counsel, on behalf of Named Plaintiff and Class
8 Members, attended mediation with Steve Mehta in July 2021. The matter did not resolve at
9 mediation, and the Parties proceed with formal discovery, including the exchange of written
10 discovery responses, policy documents, extensive time and payroll records for the class. The
11 parties then attended a second mediation on February 27, 2022 with Mark Lemke and were able to
12 resolve the matter.

13 45. The Parties agree that the terms and conditions of this Agreement are the
14 result of lengthy, intensive arms-length negotiations between the Parties after the benefit of
15 extensive discovery and assistance from an experienced employment law mediator. The Parties
16 agree that the Agreement is entered into in good faith as to each Class Member and PAGA Member
17 and that the Settlement is fair, reasonable and adequate as to each Class Member and PAGA
18 Member.

19 **TERMS AND CONDITIONS OF SETTLEMENT**

20 NOW THEREFORE, in consideration of the recitals listed above and the promises and set
21 forth below, and intending to be legally bound and acknowledging the sufficiency of the
22 consideration and undertakings set forth herein, Named Plaintiff, individually on behalf of himself
23 and on behalf of the Class Members and PAGA Members and LWDA, on the one hand, and
24 Defendants, on the other hand, agree that the Action shall be, and is finally and fully compromised
25 and settled on the following terms and conditions.

26 46. Non-Admission of Liability. The Parties enter into this Agreement to
27 resolve the Action and to avoid the burden, expense and risk of continued litigation. In entering
28 into this Agreement, Defendants do not admit, and specifically deny, that they have: violated any

1 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any
2 statute or any other applicable laws, regulations, or legal requirements; breached any contract; or
3 engaged in any other culpable, wrongful or unlawful conduct with respect to its employees or any
4 other person or entity. Neither this Agreement, nor any of its terms or provisions, nor any of the
5 negotiations connected with it or proceedings, payouts, or other events associated with it, shall be
6 construed as an admission or concession by Defendants of any such violation(s) or failure(s) to
7 comply with any applicable law by Defendants or any Released Parties. Except as necessary in a
8 proceeding to approve, interpret, or enforce the terms of this Agreement, this Agreement and its
9 terms and provisions shall not be offered or received as evidence in any action or proceeding to
10 establish any admission on the part of Defendants or to establish the existence of any condition
11 constituting a violation of, or noncompliance with, federal, state, local or other applicable law. The
12 Parties intend this Settlement to be contingent upon the Preliminary and Final Approval of this
13 Agreement; and in the event Final Approval of this Agreement is not obtained, the Parties do not
14 waive, and instead expressly reserve, their respective rights to prosecute and defend the Action as
15 if this Agreement never existed. In the event that Final Approval of this Agreement is denied by
16 the Court, fails to become effective, or is reversed, withdrawn, or modified by the Court or any
17 other court with jurisdiction over the Action, the Agreement shall become null and void *ab initio*
18 and shall have no bearing on, and shall not be admissible in connection with, further proceedings
19 in the Action.

20 47. Stipulation for Class Certification. The Parties stipulate to the certification
21 of the Class for purposes of this Settlement only. If, however, the Settlement does not become final
22 for any reason, the Parties' Agreement shall become null and void *ab initio* and shall have no
23 bearing on, and shall not be admissible in connection with, whether class certification would be
24 appropriate in any other context in the Action.

25 48. Release of Settled Claims. As of the Funding Date, Named Plaintiff and all
26 Settlement Class Members hereby do and shall be deemed to have fully, finally, and forever
27 released, settled, compromised, relinquished, and discharged any and all Settled Claims against any
28 and all Released Parties. The Settlement includes a release of all Settled Claims during the Class

1 Period by Settlement Class Members. The Parties agree that it is their intent that the terms set forth
2 in this Agreement will release any further attempt, by lawsuit, administrative claim or action,
3 arbitration, demand, or other action of any kind, by each and every Settlement Class Member to
4 obtain any recovery based on Settled Claims.

5 a. The Parties agree for settlement purposes only that, because the Class
6 Members are so numerous, it is impossible or impracticable to have each Class Member execute
7 this Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature
8 of the release of Settled Claims and Settled PAGA Claims and such notice shall have the same
9 force and effect as if the Agreement were executed by each Class Member.

10 b. Named Plaintiff and Class Counsel represent, covenant, and warrant
11 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
12 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
13 cause of action, or rights herein released and discharged, except as set forth herein.

14 c. The Parties agree that this is a settlement of disputed claims not
15 involving undisputed wages, and that Labor Code Section 206.5 is therefore inapplicable.

16 49. Release of Settled PAGA Claims. As of the Funding Date, Named Plaintiff,
17 individually and on behalf of the State of California and all PAGA Members, hereby does and shall
18 be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and
19 discharged any and all of the Released Parties of and from any and all Settled PAGA Claims. The
20 Parties agree that it is their intent that the terms set forth in this Agreement will release any further
21 attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind,
22 by each and every PAGA Member to obtain any recovery based on the Settled PAGA Claims.

23 50. Individual Release of Claims for Named Plaintiff. In addition to all other
24 releases set forth in this Agreement, and except as to claims specifically excluded, Named Plaintiff,
25 in consideration of the General Release Payment, makes the additional following general release
26 of all claims, known or unknown: Named Plaintiff releases the Released Parties from all claims,
27 demands, rights, liabilities, and causes of action of every nature and description whatsoever, known
28 or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of

1 any state or federal statute, rule, or regulation arising out of, relating to, or in connection with any
2 act or omission by or on the part of any of the Released Parties committed or omitted through the
3 execution of this Agreement. Named Plaintiff also specifically agrees and acknowledges that he is
4 waiving all claims under Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Americans
5 with Disabilities Act, the California Fair Employment and Housing Act, the Family and Medical
6 Leave Act, the Employee Retirement Income Security Act, the California Labor Code, California
7 Government Code, and California Business and Professions Code. (The release set forth in this
8 Paragraph shall be referred to as the "General Release"). Named Plaintiff agrees not to sue or
9 otherwise make a claim against any of the Released Parties that is in any way related to the General
10 Release to the maximum extent permitted by law. The General Release includes any unknown
11 claims Named Plaintiff does not know or suspects to exist in his favor at the time of the General
12 Release, which, if known, might have affected his respective settlement with, and release of, the
13 Released Parties by Named Plaintiff or might have affected his decision not to object to this
14 Settlement or the General Release. With respect to the General Release, Named Plaintiff stipulates
15 and agrees that he shall be deemed to have, and by operation of the Final Judgment shall have,
16 expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and
17 benefits of Section 1542 of the California Civil Code, which states:

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

22 This General Release shall not affect or bar any claims that Named Plaintiff may have for
23 Unemployment Insurance, claims under the National Labor Relations Act, or the right to receive
24 benefits under any retirement plan or to elect COBRA continuation of health insurance benefits.
25 Nor shall the General Release preclude Named Plaintiff from filing a charge with any applicable
26 administrative agency. Named Plaintiff understands and agrees, however, that by way of the
27 General Release, he individually releases any right to recover monetary damages in an action
28 brought by an administrative agency.

1 51. Settlement Payments and Calculation of Claims. Subject to final Court
2 approval and the conditions specified in this Agreement, and in consideration of the mutual
3 covenants and promises set forth herein, Defendants agree to make a payment or payments as set
4 forth herein totaling an amount of, but not to exceed, the Total Settlement Amount. The Total
5 Settlement Amount shall be apportioned as follows:

6 a. Attorneys' Fees. Class Counsel will apply to the Court for an award
7 of Attorneys' Fees, as defined above. The Attorneys' Fees shall be paid from and be deducted from
8 the Total Settlement Amount, and Defendants will not oppose such application. In the event the
9 Court approves an amount less than one-third (33 1/3%) of the Total Settlement Amount, the
10 unawarded amount shall become part of the Net Distribution Fund for allocation to Settlement
11 Class Members. Any reduction by the Court shall not constitute grounds for revocation or
12 cancellation of this Agreement by Named Plaintiff, however Plaintiff and Class Counsel shall
13 maintain the right to appeal any such reduction.

14 b. Attorneys' Costs. Class Counsel shall request approval of Attorneys'
15 Costs, as defined above, which will be paid and deducted from the Total Settlement Amount.
16 Defendants will not oppose such application. Any unawarded Attorneys' Costs shall become part
17 of the Net Distribution Fund for allocation to Settlement Class Members. Any reduction by the
18 Court shall not constitute grounds for revocation or cancellation of this Agreement by Named
19 Plaintiff, however Plaintiff and Class Counsel shall maintain the right to appeal any such reduction.
20 Attorneys' Fees as specified in the preceding paragraph and Attorneys' Costs as specified in this
21 paragraph shall cover all claimed and unclaimed Attorneys' Fees, Attorneys' Costs, and other
22 amounts payable or awardable against Defendants for Class Counsel's work, effort, or involvement
23 in the Action and in carrying out the Agreement and includes any and all work, effort, or
24 involvement to carry out the terms of the Agreement and as may be potentially or actually necessary
25 or advisable to defend the Agreement and/or Settlement through appeal, or collateral attack or in
26 any other forum or proceeding. These specified Attorneys' Fees and Attorneys' Costs shall be the
27 sole payment for attorneys' fees and costs and, otherwise, the Parties and Class Members and their
28 counsel shall bear their own fees and costs in connection with the Action.

1 c. Settlement Administration Costs. Class Counsel will also apply to
2 the Court for approval of the Settlement Administration Costs, as defined above. Defendants will
3 not oppose such application. Any unawarded amount shall become part of the Net Distribution
4 Fund for allocation to Settlement Class Members. Class Counsel will specify the amount sought
5 for such costs, up to the foregoing maximum, in Named Plaintiff's motion for final approval of the
6 Settlement.

7 d. Named Plaintiff's Service Payment and General Release Payment.
8 Class Counsel will apply to the Court for approval of an enhancement award in an amount not to
9 exceed Five Thousand Dollars and Zero Cents (\$5,000.00) and a General Release Payment of Ten
10 Thousand Dollars and Zero Cents (\$10,000.00) to the Named Plaintiff to be paid from the Total
11 Settlement Amount for assuming the risks associated with this litigation, and in consideration for a
12 General Release of all claims by Named Plaintiff respectively. Defendants will not oppose such
13 applications. Any unawarded amount of the enhancement award shall become part of the Net
14 Distribution Fund for allocation to Settlement Class Members. Any reduction by the Court shall
15 not constitute grounds for revocation or cancellation of this Agreement by Named Plaintiff,
16 however if the General Release Payment is not awarded, the general release outlined in Paragraph
17 49 shall be null and void, and the General Release Payment shall revert back to Defendants. These
18 payments shall be in addition to the Named Plaintiff's share of the Net Distribution Fund as a
19 settlement class member.

20 e. Employer Payroll Taxes. Defendants agree to pay their respective
21 share of payroll taxes and contributions in connection with the portion of the settlement allocated
22 towards wages (which it will pay in addition to and separate and apart from the Total Settlement
23 Amount).

24 f. PAGA Allocation and Payments. Pursuant to California Labor Code
25 Section 2698, *et seq.*, the Parties designate the PAGA Allocation to resolve the Settled PAGA
26 Claims. Pursuant to the California Labor Code, seventy-five percent (75%) of the PAGA
27 Allocation, which is Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), will be
28 paid to the LWDA. The remaining Two Thousand Five Hundred Dollars and Zero Cents

1 (\$2,500.00) (“Net PAGA Distribution Amount”) shall be paid to PAGA Members on a *pro-rata*
2 basis based on the number of weeks of employment for the PAGA Member during the PAGA
3 Period (“Qualifying PAGA Weeks”).

4 g. Settlement Payments to Settlement Class Members. Settlement
5 Payments to the Settlement Class Members will be calculated as follows:

6 i. The Settlement Administrator will determine the number of
7 weeks of employment for each Class Members during the Class Period (“Qualifying Week(s)”)
8 based on the Class Members’ respective dates of employment minus any periods of leave taken,
9 which will be reflected in the Class List to be provided by Defendants to the Settlement
10 Administrator;

11 ii. Each Class Members is eligible to receive a *pro rata* share of
12 the Net Distribution Fund based on their share of the total number of Qualifying Weeks.

13 h. The entire Net Distribution Fund will be disbursed to all Class Members and
14 PAGA Members who do not submit timely and valid Requests for Exclusion.
15 If there are any valid and timely Requests for Exclusion, the Settlement
16 Administrator shall proportionately increase the individual settlement
17 payments according to the number of Qualifying Weeks, so that the amount
18 actually distributed equals 100% of the Net Distribution Fund.

19 i. The Parties agree that under no circumstances shall Defendants be obligated
20 to pay any amount under this Agreement to any Class Member other than
21 Settlement Class Members and PAGA Members.

22 j. The Parties acknowledge and agree that the formula used to calculate
23 Settlement Payments and PAGA Payments does not imply that all of the
24 elements of damages covered by the release are not being taken into account.

25 52. No Credit Toward Benefit Plans. The Settlement Payments made to
26 Settlement Class Members and PAGA Payments made to PAGA Members under this Agreement
27 shall not be utilized to calculate any additional benefits under any benefit plans to which any
28 Settlement Class Members or PAGA Members may be eligible, including, but not limited to:

1 profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave
2 plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Agreement
3 will not affect any rights, contributions, or amounts to which any Settlement Class Members and
4 PAGA Members may be entitled under any benefit plans.

5 53. Taxation of Settlement Proceeds.

6 a. The Parties agree that the Settlement Payments shall be allocated as
7 follows: twenty-five percent (25%) will be allocated to wages, and subject to all applicable
8 employee state and federal tax withholdings; thirty-three percent (25%) will be considered
9 penalties; and thirty-three percent (50%) shall be allocated to interest and any other non-wage
10 related amount. The payment for wages shall be reported on an IRS Form W-2. The payments for
11 penalties, interest and other non-wage related amounts will be reported on an IRS Form 1099.

12 b. The PAGA Payments to PAGA Members will be designated entirely
13 as payments for alleged penalties.

14 c. The Settlement Administrator shall calculate, withhold from the
15 Individual Settlement Payments, and remit to applicable governmental agencies sufficient amounts,
16 if any, as may be owed by Settlement Class Members for applicable employee taxes. The
17 Settlement Administrator will issue appropriate tax forms, as required, to each such Settlement
18 Class Member and PAGA Member consistent with the above allocations.

19 d. All Parties represent that they have not received, and shall not rely
20 on, advice or representations from other Parties or their agents regarding the tax treatment of
21 payments under federal, state, or local law. In this regard, Defendants make no representations
22 regarding the taxability of the Settlement Payments, PAGA Payments, or any other payments made
23 under this Agreement.

24 e. Each Class Counsel will be issued an IRS Form 1099 for the
25 Attorneys' Fees and Attorneys' Costs awarded by the Court.

26 f. Named Plaintiff will be issued IRS Form 1099s for any Service
27 Payment approved by the Court. The Service Payment payable to Named Plaintiff shall be in
28 addition to the Settlement Payments and PAGA Payments that he receives.

1 54. Provisional Approval of Settlement. Named Plaintiff shall file a motion in
2 the Action and take all other necessary steps to request that the Court enter the Preliminary
3 Approval Order based on an agreed-upon Settlement schedule, subject to Court approval, including:

4 a. Seeking class certification on the terms set forth in this Agreement
5 solely for purposes of Settlement;

6 b. Preliminarily approving the proposed Settlement and this
7 Agreement, including the payments to the Settlement Class Members, Class Counsel, Named
8 Plaintiff, PAGA Members, the Settlement Administrator, and the LWDA;

9 c. Preliminarily approving the appointment of Named Plaintiff as a
10 representative of the Class for settlement purposes;

11 d. Preliminarily approving the appointment of counsel for Named
12 Plaintiff as Class Counsel;

13 e. Appointing and approving the Settlement Administrator, to comply
14 with the duties and obligations as required by this Agreement;

15 f. Approving the form of the Class Notice mutually agreed by the
16 Parties;

17 g. Scheduling the Final Approval Hearing for consideration of Final
18 Approval of this Agreement; and

19 h. Approving the procedure to submit an Opt Out Request, Objection,
20 or Dispute;

21 Defendants shall not oppose Class Counsel's motion for Preliminary Approval and
22 Final Approval of the Settlement so long as the motions and supporting papers are consistent with
23 the terms of this Agreement.

24 55. Notice Procedure.

25 a. *Class and PAGA Member Data.* Within fifteen (15) days after entry
26 of the Preliminary Approval Order, Defendants shall provide to the Settlement Administrator and
27 and Class Counsel a data file that identifies for each individual, his/her/their full name, last-known
28 address, Social Security number, and the data necessary to determine Qualifying Weeks and, if

1 applicable, Qualifying PAGA Weeks for each Class Member (collectively referred to as the “Class
2 List,” Social Security numbers may be redacted from the list provided to Class Counsel). The
3 Settlement Administrator will keep the Class List confidential and shall not provide to anyone,
4 absent express written approval from Defendants, and shall use it only for the purposes described
5 herein, take adequate safeguards to protect confidential or private information, and return or certify
6 the destruction of the information upon completion of the Settlement Administration process.

7 b. *Settlement Administrator Duties.* Prior to mailing the Class Notice,
8 the Settlement Administrator will update the addresses for the Class Members and PAGA Members
9 using the National Change of Address database and other available resources deemed suitable by
10 the Settlement Administrator. To the extent this process yields a different address from the one
11 supplied by Defendants (“Updated Address”), that Updated Address shall replace the address
12 supplied by Defendants (i.e., Last Known Address) and be treated as the new Last Known Address
13 for purposes of this Agreement and for subsequent mailings in particular.

14 c. *Notice Process.* Within fourteen (14) days following receipt of the
15 Class List, the Settlement Administrator shall prepare and mail the approved Class Notice. The
16 Settlement Administrator shall deliver the Class Notice by First-Class U.S. Mail to each Class
17 Member and PAGA Member’s Last Known Address or Updated Address (if applicable).

18 d. *Opt Out Request.* Any Class Member may exclude himself or herself
19 from the Settlement. Any such Opt Out Request must be submitted to the Settlement Administrator
20 in writing on or before the Response Deadline. Opt Out Requests do not apply to the Settled PAGA
21 Claims and will not exclude PAGA Members from the release of Settled PAGA Claims.

22 e. *Objections.* Any Settlement Class Member may object to the
23 Settlement by submitting an Objection to the Settlement Administrator on or before the Response
24 Deadline. The Parties shall be permitted to file responses to any Objections no later than five (5)
25 court days prior to the Final Approval Hearing. At no time shall any of the Parties or their counsel
26 seek to solicit or otherwise encourage Settlement Class Members to submit any Objections to the
27 Settlement or appeal from the Final Approval Order and/or Final Judgment. Class Counsel shall
28

1 not represent any Settlement Class Members with respect to any such Objections. The Settlement
2 Administrator shall provide all Objections to the Parties within five days of receipt.

3 f. *Disputes.* Class Members will have the right to challenge the number
4 of Qualifying Weeks and/or Qualifying PAGA Weeks allocated to them. Class Members shall
5 have until the Response Deadline to submit to the Settlement Administrator their dispute *in writing*
6 (“Dispute”) at the address indicated on the Class Notice. Each Dispute must (1) contain the name,
7 address, and telephone number of the Class Member and the case name and number of the Action;
8 (2) be signed by the Class Member; (3) be postmarked or fax stamped on or before the Response
9 Deadline and returned to the Settlement Administrator at the specified address or fax number; (4)
10 clearly state the number of Qualified Weeks and/or Qualified PAGA Weeks they believe is correct;
11 and (5) attach any documentary evidence the Class Member has to prove the number of contented
12 Qualified Weeks and/or Qualified PAGA Weeks. Defendants shall have the right to respond to any
13 Dispute submitted by any Class Members. The Settlement Administrator will inform Class Counsel
14 and Defendants’ Counsel in writing of any timely-submitted Disputes and will determine all such
15 Disputes. Subject to Court approval, Disputes will be resolved without hearing by the Settlement
16 Administrator, who will make a decision based on Defendants’ records and any documents or other
17 information presented by the Class Member making the Dispute, Class Counsel, or Defendants.

18 g. *Settlement Administrator Follow-up efforts.*

19 i. The Settlement Administrator shall re-mail by First-Class
20 U.S. mail the Class Notice returned by the Post Office with a forwarding address, and shall re-mail
21 by First-Class U.S. mail the Class Notice to any individual who personally provides an updated
22 address to the Settlement Administrator.

23 ii. In the event that the first mailing of the Class Notice to any
24 Class Member and PAGA Member is returned without a forwarding address, the Settlement
25 Administrator will immediately perform a skip trace search using social security numbers provided
26 by Defendants and National Change of Address searches, as needed, to obtain an updated mailing
27 addresses.

1 h. *Documenting Communications.* The Settlement Administrator shall
2 date stamp documents it receives, including Opt Out Requests, Objections, Disputes and any
3 correspondences and documents from Class Members and PAGA Members.

4 i. *Settlement Administrator Declaration.* At least ten (10) days prior to
5 the filing of the motion for final approval, the Settlement Administrator shall prepare, subject to
6 the Parties' input and approval, a declaration setting forth the due diligence and proof of mailing
7 of the Class Notice, the results of the Settlement Administrator's mailings, including tracing and
8 re-mailing efforts, and the Class Members' and PAGA Members' responses to those mailing, and
9 provide additional information deemed necessary to approve the settlement.

10 j. *Settlement Administrator Written Reports.* Each week after initially
11 mailing the Class Notices and prior to the Response Deadline, the Settlement Administrator shall
12 provide the Parties with a report listing the number of Class Members that submitted Opt Out
13 Requests and Objections. Within ten (10) days after the Response Deadline, the Settlement
14 Administrator will provide a final report listing the number of Class Members who submitted Opt
15 Out Requests or Objections.

16 k. *Settlement Administrator Calculations of Settlement Payments.*
17 Within seven (7) days after resolving all timely-submitted Disputes made by Settlement Class
18 Members, and following the Final Approval Order, the Settlement Administrator shall provide to
19 the Parties a report showing its calculation of all Settlement Payments to be made to Settlement
20 Class Members and PAGA Payments to be made to PAGA Members. After receiving the
21 Settlement Administrator's report, Class Counsel and Defendants' counsel shall review the same
22 to determine if the calculation of payments to Settlement Class Members and PAGA Members is
23 consistent with this Agreement, and shall notify the Settlement Administrator if either counsel does
24 not believe the calculation is consistent with the Agreement. After receipt of comments from
25 counsel, the Settlement Administrator shall finalize its calculation of Settlement Payments and
26 PAGA Payments, at least five (5) days prior to the distribution of such payments, and shall provide
27 Class Counsel and Defendants' Counsel with a final report listing the amount of all payments to be
28 made to each Settlement Class Member from the Net Distribution Fund and listing the amount of

1 all payments to be made to each PAGA Member from the Net PAGA Distribution Amount. The
2 Settlement Administrator will also provide information that is requested and approved by both
3 Parties regarding its duties and other aspects of the Settlement and that is necessary to carry out the
4 terms of the Settlement.

5 56. Requirements for Recovery of Settlement Payments.

6 a. *Class Members.* No claim form is necessary to participate in the
7 Settlement. Unless a Class Member submits a valid and timely Opt Out Request, that Class
8 Member will be a Settlement Class Member, bound by the Final Judgment, and will receive a
9 payment from the Net Distribution Fund (i.e., a Settlement Payment). All Class Members except
10 for those who timely and validly opt out of the Settlement (i.e., Settlement Class Members) shall
11 be bound by the release of Settled Claims in this Agreement.

12 b. *PAGA Members.* All PAGA Members shall be bound by the release
13 of Settled PAGA Claims in this Agreement.

14 c. *Late Submissions.* The Settlement Administrator shall not accept as
15 valid any Opt Out Request postmarked after the Response Deadline. It shall be presumed that, if
16 an Opt Out Request or Objection is not postmarked by, facsimiled, or otherwise received on or
17 before the Response Deadline, the Class Member did not return the Opt Out Request or Objection
18 in a timely manner.

19 d. *Opt-Out Procedure.* A Class Member will not be entitled to opt out
20 of the Settlement established by this Agreement unless they submit to the Settlement Administrator
21 a timely and valid Opt Out Request.

22 i. The Settlement Administrator shall not have the authority to
23 extend the deadline for Class Members to submit an Opt Out Request absent agreement by both
24 Parties.

25 ii. Class Members shall be permitted to rescind in writing their
26 Opt Out Request by submitting a written rescission statement to the Settlement Administrator no
27 later than the filing date of the motion for Final Approval.

iii. If more than fifteen percent (15%) of the Class Members timely opt out of the Settlement, Defendants shall have the sole and absolute discretion to withdraw from this Agreement within seven (7) days after the Response Deadline and written notice from the Settlement Administrator of the final opt out rate. Defendants shall provide written notice of such withdrawal to Class Counsel. In the event that Defendants elect to so withdraw, the withdrawal shall have the same effect as a termination of this Agreement for failure to satisfy a condition of Settlement, and the Agreement shall become null and void and have no further force or effect and Defendants will be responsible for any and all Settlement Administration Costs incurred thus far.

57. Final Approval Hearing and Final Judgment.

a. *Entry of Final Judgment.* At the Final Approval Hearing, Named Plaintiff will request, and Defendants will concur in said request, that the Court enter a Final Judgment.

b. *Motion.* Named Plaintiff will draft and file a motion for final approval in conformity with any requirements from the Court and will take other action to request the entry of Final Judgment in accordance with this Agreement. In conjunction with the motion for final approval and requesting an award of Attorneys' Fees, Attorneys' Costs, and Service Payment, Class Counsel shall file a declaration from the Settlement Administrator confirming that the Class Notice was mailed to all Class Members as required by this Agreement, as well as any additional information Class Counsel, with the input and approval of Defendants, deems appropriate to provide to the Court.

c. *Order.* The Parties shall take all reasonable efforts to secure entry of the Final Approval Order and Final Judgment. If the Agreement does not become final for any reason, this Agreement shall be void *ab initio*, and Defendants shall have no obligation to make any payments under the Agreement. The Parties jointly agree pay any Settlement Administration Costs incurred up to that point. Named Plaintiff will submit a proposed Final Approval Order, the Final Approval Order shall contain the following provisions, or provisions equivalent to the following:

1 i. Wherein the Court enters Final Judgment, finding that this
2 Agreement and Settlement is fair, just, equitable, reasonable, adequate, and in the best interests of
3 the Class and was reached as a result of intensive, serious, and non-collusive arms-length
4 negotiations and was achieved with the aid of an experienced mediator and in good faith as to each
5 Class Member;

6 ii. That affirms that each side will bear its own costs and fees
7 (including attorneys' fees), except as provided by the Agreement, and that Defendants shall not be
8 required to pay any amounts other than as set forth in the Agreement;

9 iii. That confirms the certification of the Class for purposes of
10 Settlement only;

11 iv. That finds that the Settlement Administration process as
12 carried out afforded adequate protections to Class Members, provided the best notice reasonably
13 practicable, and satisfied the requirements of law and due process;

14 v. That rejects any objections (if any) to the Settlement;

15 vi. That approves the settlement of Settled PAGA Claims
16 consistent with the Settlement;

17 vii. That retains Court jurisdiction after entry of judgment to
18 oversee administration and enforcement of the terms of the Agreement; and

19 viii. That requires the Parties to carry out the provisions of this
20 Agreement.

21 58. Notice to the Labor and Workforce Development Agency. Class Counsel is
22 responsible for complying with all requirements of the PAGA governing notice to the LWDA of
23 settlement and/or final judgment. Specifically, Class Counsel will provide a copy of the proposed
24 settlement to the LWDA at the same time that it is submitted to the Court and will further provide
25 a copy of the Court's judgment to the LWDA within ten (10) days after entry of judgment or order
26 as required by Labor Code sections 2699(1)(2)-(3).
27
28

1 59. Payment of Settlement. Defendants will deposit the Total Settlement
2 Amount into an account established by the Settlement Administrator within fourteen (14) business
3 days of the Effective Date.

4 a. The Parties agree that the Total Settlement Amount will qualify as a
5 settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal Revenue Code of
6 1986, as amended, and Section 1.468B-1 *et seq.* of the income tax regulations. Furthermore, the
7 Settlement Administrator is hereby designated as the “Administrator” of the qualified Settlement
8 funds for purposes of Section 1.468B-2(k) of the income tax regulations. As such, all employee
9 taxes imposed on the gross income of that settlement fund and any tax-related expenses arising
10 from any income tax returns or other reporting documents that may be required by the Internal
11 Revenue Service or any state or local taxing body will be paid from the Net Distribution Fund by
12 the Settlement Administrator.

13 b. The Settlement Administrator shall be deemed to have timely
14 distributed Settlement Payments and PAGA Payments if it places said payments in the mail (First-
15 Class U.S.). If the Settlement Administrator receives notice from Settlement Class Members or
16 PAGA Members that they have not received their settlement check due to changes of address or
17 other circumstances, the Settlement Administrator shall make reasonable efforts to ensure the initial
18 payment is cancelled and re-mail the Settlement Payment to the Settlement Class Member and/or
19 PAGA Payment to the PAGA Member.

20 c. The distribution of Attorneys’ Fees, Attorneys’ Costs, and the
21 Service Payment shall occur no later than the Settlement Proceeds Distribution Deadline.

22 60. Settlement Class Members who are sent Settlement Payments and PAGA
23 Members who are sent PAGA Payments shall have ninety (90) days after mailing by the Settlement
24 Administrator to cash their settlement checks.

25 61. If such Settlement Class Members and/or PAGA Members do not cash their
26 checks within the ninety (90) day period, those checks will become void and a stop payment will
27 be placed on the uncashed checks. In the event settlement checks that are not cashed within ninety
28 (90) days of mailing, or are returned to the Settlement Administrator, the Settlement Administrator

1 shall send the uncashed funds to Legal Aid at Work, a jointly-selected non-profit organization in
2 compliance with California Code of Civil Procedure section 384. Settlement Class Members and
3 PAGA Members who fail to deposit or negotiate their check(s) in a timely fashion shall remain
4 subject to the terms of the Agreement and the Final Judgment.

5 62. Upon completion of administration of the Settlement, the Settlement
6 Administrator shall provide written certification of such completion to the Court, Class Counsel,
7 and Defendants' Counsel.

8 63. Binding Effect of Agreement on Settlement Class Members and PAGA
9 Members. Subject to final Court approval, all Settlement Class Members and PAGA Members
10 shall be bound by this Agreement and Final Judgment shall be entered in the Action.

11 64. Waiver of Appeal. Subject to Preliminary and Final Approval of this
12 Settlement, Named Plaintiff and all Class Members, except those Class Members who make timely
13 and valid Objections pursuant to the terms of this Agreement, expressly waive the right to appeal.
14 Plaintiff or Class Counsel may appeal any reduction to the Attorneys' Fees and Costs below the
15 amount requested from the Court.

16 65. Automatic Voiding of Agreement if Settlement Not Finalized. If for any
17 reason the Effective Date does not occur, the Settlement shall be null and void and the orders,
18 judgment, and dismissal to be entered pursuant to this Agreement shall be vacated; and the Parties
19 will be returned to the status quo prior to entering this Agreement with respect to the Action, as if
20 the Parties had never entered into this Agreement. In addition, in such event, the Agreement and
21 all negotiations, court orders and proceedings relating thereto shall be without prejudice to the
22 rights of any and all Parties hereto, and evidence relating to the Agreement and all negotiations
23 shall not be admissible or discoverable in the Action or otherwise in any other proceeding.

24 66. Confidentiality

25 a. Class Counsel agrees not to solicit any Class Members to exclude
26 themselves from the terms of this Agreement. Nothing will prevent Class Counsel from responding
27 to inquiries from Class Members. Defendants agree that it shall not discourage any Class Members
28 from participating in the settlement and shall refer any questions to the Settlement Administrator.

1 b. Named Plaintiff and Class Counsel agree to maintain the
2 confidentiality of any documents produced, formally or informally, during the course of the Action.

3 c. Nothing in this provision will prohibit Class Counsel or Named
4 Plaintiff from seeking Preliminary Approval or Final Approval of the Settlement, or from making
5 any disclosures as required by law.

6 67. Pro Rata Adjustment to Total Settlement Amount Based on Class Members.
7 Defendants have in good faith estimated that the size of the Class through Preliminary Approval
8 will not exceed 50 individuals. If the actual Class Members exceeds 50, then the parties agree that
9 the Total Settlement Amount shall be increased proportional to the number of additional Class
10 Members over 50, or all at Defendant's election Class Members hired after the 50th employee will
11 be excluded from the class.

12 68. No Retaliation. Defendants shall not take any adverse action against any
13 Class Member, including the Named Plaintiff, because of the Action or because of the existence
14 of, and/or participation in, the Settlement, or because they choose to benefit from the Settlement or
15 to object to the Settlement. Defendant shall not take action to discourage Class Members from
16 participating in the Settlement. Notice to the Class Members will include a statement that
17 Defendant will not retaliate against Class Members for participating in the Settlement.

18 69. Modification in Writing. This Agreement may be altered, amended,
19 modified or waived, in whole or in part, only in a writing signed by counsel for the Parties and, if
20 a material change, approved by the Court. Any waiver of any provision of this Agreement shall
21 not constitute a waiver of any other provision of this Agreement unless expressly so indicated.

22 70. Ongoing Cooperation. Named Plaintiff and Defendants, and each of their
23 respective counsel, shall cooperate in good faith to execute all documents and perform all acts
24 necessary and proper to effectuate and implement the terms of this Agreement, including but not
25 limited to drafting and submitting the Motions for Preliminary and Final Approval, and defending
26 the Agreement and Final Judgment against objections and appeals. The Parties to this Agreement
27 shall use their best efforts, including all efforts contemplated by this Agreement and any other
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1 efforts that may become necessary by order of the Court or otherwise, to effectuate this Agreement
2 and the terms set forth herein.

3 71. Parties' Authority. The signatories hereby represent that they are fully
4 authorized to enter into this Agreement and bind the Parties hereto to the terms and conditions
5 hereof.

6 72. No Prior Assignments. The Parties hereto represent, covenant, and warrant
7 that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign,
8 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
9 cause of action, or rights herein released and discharged except as set forth herein.

10 73. Binding on Successors. This Agreement shall be binding and shall inure to
11 the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs
12 and legal representatives, including the Released Parties.

13 74. Integration/Entire Agreement. The Parties warrant that no promise or
14 inducement has been offered or made to any of the Parties except as set forth herein. This
15 Agreement constitutes the full, complete and entire understanding, agreement and arrangement
16 between Named Plaintiff and the Class Members and PAGA Members on the one hand, and
17 Defendants and the Released Parties on the other hand, with respect to the Settlement of the Action
18 and the Settled Claims and Settled PAGA Claims against Defendants and the Released Parties.
19 This Agreement supersedes any and all prior oral or written understandings, agreements and
20 arrangements, written or oral, express or implied, between the Parties with respect to the Settlement
21 of the Action and the Settled Claims and Settled PAGA Claims against Defendants and the
22 Released Parties. The Parties explicitly recognize California Civil Code Section 1625 and
23 California Code of Civil Procedure Section 1856(a), which provide that a written agreement is to
24 be construed according to its terms, and may not be varied or contradicted by extrinsic evidence,
25 and agree that no such extrinsic oral or written representations or terms shall modify, vary, or
26 contradict the terms of this Agreement.

27 75. Execution in Counterparts. This Agreement may be signed in one or more
28 counterparts. A photographic, scanned or facsimile copy of signatures shall be treated as an original

1 signature for all purposes. All executed copies of this Agreement, and photocopies thereof
2 (including electronic signatures, facsimile or email copies of the signature pages), shall have the
3 same force and effect and shall be as legally binding and enforceable as the original.

4 76. Captions. The captions and section numbers in this Agreement are inserted
5 for the reader's convenience, and in no way define, limit, construe, or describe the scope or intent
6 of the provisions of this Agreement.

7 77. Governing Law. This Agreement shall be interpreted, construed, enforced,
8 and administered in accordance with the laws of the State of California, without regard to otherwise
9 applicable principles of conflicts of laws.

10 78. Mutual Preparation. The Parties have had a full opportunity to negotiate
11 the terms and conditions of this Agreement. Accordingly, this Agreement shall not be construed
12 more strictly against one Party than another merely by virtue of the fact that it may have been
13 prepared by counsel for one of the Parties, it being recognized that, because of the arms-length
14 negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

15 79. Resolution of Disputes. The Parties agree to refer any disputes related to
16 the drafting of the Agreement and attached documents to a mutually agreeable mediator.

17 80. Enforcement Actions. In the event that one or more of the Parties to this
18 Settlement institutes any legal action or other proceeding against any other party or parties to
19 enforce the provisions of this Agreement or to declare rights and/or obligations in dispute under
20 this Agreement, the prevailing party or parties shall be entitled to recover from the non-prevailing
21 party or parties their reasonable attorney's fees and costs, including expert witness fees incurred in
22 connection with any enforcement actions.

23 //

1 **81. Representation by Counsel.** The Parties acknowledge that they have been
2 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
3 and that this Agreement has been executed with the consent and advice of counsel.

4 **IT IS SO AGREED:**

5 Dated: August 11, 2022
6



7
8 EDWIN MOLINA

9 Dated: 08/15/2022, 2022
10

SBR EXPRESS, INC.

Bharat Jain

11 By:
12 Its:

13 **APPROVED AS TO FORM:**
14

15 Dated: August 12, 2022
16

LEVIAN LAW



17
18 K. Kevin Levian

19 Attorney for Defendant
20

21 Dated: August 11, 2022
22

MEHTANI LAW OFFICES

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Dated: August 15, 2022

BANNER LAW GROUP



Arnab Banerjee

Attorneys for Plaintiffs