

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Peter J. Carlson, Esq. [SBN 295611]
peter@lmlfirm.com
LAUBY, MANKIN & LAUBY LLP
5198 Arlington Avenue, PMB 513
Riverside, CA 92504
Tel: (951) 320-1444 | Fax: (951) 320-1445

Attorneys for Plaintiff, on a representative basis and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

JOSEPH GREENDALE, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

ANDERSEN DISTRIBUTION, INC., a
Delaware Corporation; ANDERSEN
LOGISTICS SACRAMENTO LLC, a
Minnesota Limited Liability Company;
ANDERSEN WINDOWS, INC., a Minnesota
Corporation; RENEWAL BY ANDERSEN,
LLC, a Minnesota Limited Liability
Company; and DOES 1 through 20, inclusive;

Defendants.

Case No.: CIVDS2016569
*[Assigned to Hon. Judge David Cohn, Dept
S26, for all purposes]*

**DECLARATION OF BRIAN J. MANKIN,
ESQ., IN SUPPORT OF MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Hearing
Date: July 11, 2023
Time: 9:00 a.m.
Dept: S26

Complaint filed: August 3, 2020

I, Brian J. Mankin, state and declare:

1. I am an attorney licensed to practice before all of the courts of the State of California. I manage the employment law department and am a partner with the law firm of Lauby Mankin Lauby LLP, which has offices in Orange County and Riverside County. I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein. I submit this declaration in support of Plaintiff's Motion for Final Approval of this Class Action

1 Settlement. If called as a witness, I could and would competently testify thereto.

2 **COUNSEL'S EXPERIENCE**

3 2. I have been a member, in good standing, of the State Bar of California since 2001.
4 I am admitted to practice in the United States District Courts for the Central and Southern
5 District of California and the Ninth Circuit Court of Appeal and have tried cases in various
6 courts in California.

7 3. I have handled well over 500 employee vs. employer litigation matters during my
8 22 years in practice. Over the last 15 years, my practice has almost entirely consisted of
9 representing employees, the majority of which has included class action and representative
10 action wage and hour matters. In total, I have handled well over 250 class action and
11 representative action wage/hour cases, and have been appointed by the court as class counsel and
12 have received final court approval and judgment in over half of those actions to date, and
13 anticipate receiving final approval in many more of those in the future.

14 4. As part of these settlements and judgments, I have recovered in excess of \$250
15 million in damages for my clients and the class members (who often work as nurses, ambulance
16 drivers, technicians, warehouse workers, truck drivers, sales, professional occupations and
17 countless other trades). My team and I once held the record for the largest known PAGA-only
18 case in California's history, which followed extensive litigation, summary adjudication and writs
19 to the CA Supreme Court against a Fortune 50 company (Garcia v. Macy's, San Bernardino
20 Superior Court).

21 5. I have tried two major class and PAGA cases against Fortune 100 companies. In
22 2018, I was lead counsel in a PAGA case that my firm tried in the Orange County Superior Court
23 and received a \$425,000 judgment. In 2019, I was co-counsel in a class action case against
24 Walmart in District Court, wherein the jury awarded Plaintiffs and the class over \$6 million.
25 Both cases were appealed.

26 6. I was named by the LA Times as one "Southern California Leading Lawyers" in
27 the May 2023 issue of Consumer Attorney's of Southern California (a recognition given to 17
28 employment/labor law attorneys in 2023). Additionally, over the last five consecutive years, I

1 have been selected by my peers as a “Super Lawyer” in Employment Litigation, a distinction that
2 only 5% of lawyers receive.

3 **ADEQUACY OF THE SETTLEMENT**

4 7. The Class, as conditionally certified by this Court, consists of 552 current and
5 former non-exempt employees employed by Defendants in California at any time during the
6 Class Period of August 3, 2016, through November 27, 2022 (the “Class Members”).

7 8. As set forth in the Declaration of the Settlement Administrator, the Net Settlement
8 Amount is approximately \$510,054.64, after the deductions set forth in the chart below:

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	Total Amount
<i>Gross Settlement Amount</i>	\$ 900,000.00
Attorneys’ Fees (1/3)	\$ 300,000.00
Litigation Costs	\$ 13,068.74
Administrator Costs	\$ 11,876.62
PAGA Penalties	\$ 60,000.00
Class Representative’s Service Award	\$ 5,000.00
<i>Net Settlement Amount</i>	\$ 510,054.64

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16 9. The process of mailing the Class Notice was very successful, as 99.8% of the
17 Notices were deemed deliverable by the Settlement Administrator.

18 10. The response from the Class Members was overwhelmingly positive, as no Class
19 Members objected to the Settlement and only one person opted out.

20 11. As discussed at length in Plaintiff’s motion for preliminary approval, as well as in
21 the Motion for Final Approval, this Settlement is very favorable to the Class with an average
22 payment of \$924.01 per Class Member based on a payment of \$13.62 per week worked, and the
23 release is narrowly limited to the claims alleged.

24 12. Sufficient information existed to allow Class Counsel to intelligently value this
25 case. Given the parties’ arms’ length bargaining facilitated by a reputable and experienced wage
26 and hour mediator, the exchange of informal discovery, the experience of Class Counsel, the fact
27 that 99.8% of the Class elected to participate and no objections were submitted, the presumption
28 of fairness is justified.

1 13. I believe that the Settlement is fair, reasonable and adequate, and in the best
2 interests of the Class, given the litigation risks and delay inherent in further litigation and
3 possible appeals. As set forth in Plaintiff's motion for preliminary approval and the declarations
4 submitted in support thereof, Defendants contested Plaintiff's claims, and Plaintiff faced real
5 challenges moving forward and obtaining a recovery in this matter. Nonetheless, the Parties
6 concluded that further litigation would be protracted and expensive, and that it is desirable that
7 the action be fully and finally settled in the manner and upon the terms and conditions set forth in
8 the Settlement Agreement in order to limit further expense, inconvenience and distraction, to
9 dispose of burdensome and protracted litigation, and to permit the operation of Defendants'
10 business without further expensive litigation and the distraction and diversion of its personnel
11 with respect to matters at issue. All parties took into account the uncertainty of risks inherent in
12 any litigation, especially in complex cases such as this case. The Parties determined that it is
13 desirable and beneficial to both the Class and Defendants that this case be settled. Risks on both
14 sides were considered in reaching the Settlement Agreement. The recoveries contemplated by the
15 Settlement represent a good result for the Class, fairly proportioned to the likely risk-adjusted
16 recovery in litigation.

17 **ADEQUACY OF COUNSEL AND**
18 **REASONABLENESS OF REQUESTED FEE AND COST AWARDS**

19 14. As set forth above, I have handled well over 250 class and representative actions,
20 have been appointed as class counsel and have successfully resolved approximately half of those
21 actions, and many others remain pending and will successfully resolve in the future while
22 recovering in excess of \$250 million dollars for my clients and Class Members. This is
23 substantially better than average accordingly to Mayer Brown LLP's study entitled, An
24 Empirical Analysis of Class Actions, cited in *Laguna v. Coverall North America, Inc.* (9th Cir.
25 2014) 753 F.3d 918, which found that only one-third of class actions are successful, compared to
26 two-thirds that are defeated and result in no payment to the class members.¹

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¹ www.mayerbrown.com/files/uploads/Documents/PDFs/2013/December/DoClassActionsBenefitClassMembers.pdf

1 15. When this case was taken on a contingency fee basis, with my firm agreeing to
2 assume responsibility for all litigation costs, the ultimate result was far from certain. In the
3 course of this litigation, Class Counsel paid all costs including filing fees, court costs, research
4 fees, and mediation costs. There was never a guarantee that we would recoup those expenditures.

5 16. It has been my experience that the benchmark for attorney fee awards in
6 California state cases is one-third of a common settlement fund, which the CA Supreme Court
7 upheld in the *Robert Half* case. Here, in accordance with the Settlement Agreement, Class
8 Counsel is seeking a fee of \$300,000, which is one-third of the Settlement Amount.

9 17. There are several additional factors why I believe that the Court should award
10 one-third of the common fund as reasonable attorneys' fees. First, Class Counsel's efforts
11 resulted in a common fund settlement amount of \$900,000. This is a very good result in light of
12 the disputed nature of the claims alleged. This result was achieved by the work and success of
13 my office, who negotiated the settlement after extensive preparation, investigation, mediation,
14 and substantial work thereafter.

15 18. Second, Plaintiff faced significant risks going forward with the litigation. As
16 discussed in the motion for preliminary approval, Defendants raised various defenses throughout
17 this litigation, any one of which, if successful, could have decimated Plaintiff's case. And
18 Defendants vowed to raise all these defenses at trial. Accordingly, Plaintiff faced risky issues
19 going forward with this litigation, and it would have taken several more years to realize any
20 recovery in this action along with the possibility of post-trial appeals.

21 19. Third, Class Counsel are experienced class action litigators. This experience and
22 expertise, combined with the high quality of work performed in this case, resulted in the
23 settlement achieved in this case.

24 20. Fourth, Class Counsel have been representing Plaintiff in this matter strictly on a
25 contingency fee basis. To that end, we have incurred the risk of non-recovery after investing a
26 substantial amount of time, money, and resources, and have done so since the inception of this
27 case without any payment or compensation. If Plaintiff had lost this case, we would have
28 recovered nothing, and would have lost our out-of-pocket costs. This is not an easy burden for

1 my office, which is a small firm.

2 21. Fifth, the request for attorney's fees in the amount of one-third of the common
3 fund falls well within the norms accepted by state and federal courts in California in comparable
4 wage and hour actions actually handled by my office. Moreover, the award of a one-third fee
5 recovery under the common fund doctrine was recently approved by the California Supreme
6 Court in *Laffitte v. Robert Half*.

7 22. For all of the above reasons, a common fund fee award here in the amount of one-
8 third of the common fund created by Plaintiff and Class Counsel is fair and reasonable.

9 23. At my office, this case was primarily handled by Peter Carlson, a senior associate
10 within our office, while I performed the role of the supervising attorney. As set forth in his
11 declaration, Mr. Carlson works exclusively with me on employment law matters and has been in
12 practice for 9 years. He bills at the hourly rate of \$575/hour. I have been in practice for 22
13 years, with most of those years handling complex litigation and for over the last 15 years, my
14 practice has almost entirely consisted of handling class action wage and hour matters. My billing
15 rate is \$775/hour. I believe these rates are consistent with Plaintiff and Defense attorneys who
16 handle complex class action litigation, if not somewhat lower.

17 24. The hourly rates above are comparable to those of other attorneys with equal or
18 similar experience, if not somewhat lower (i.e., the Laffey Matrix at www.laffeymatrix.com
19 indicates that the benchmark rate for an 8–10-year attorney to be \$676/hour and a 11-19 year
20 attorney at \$764/hour, and a 20+ year attorney at \$919/hour). Moreover, the Wolters Kluwer
21 Real Rate Report ("Real Rate Report"), provides directly applicable information in this regard.
22 The Real Rate Report is based on an enormous and statistically significant compilation of data.
23 For instance, in 2017, the report was based on 25.8 million billing entries and 23.9 million hours
24 billed by over 112,100 individual timekeepers from 4,620 law firms, totaling \$9.02 billion in fees
25 billed. The Real Rate Report then compiles and analyzes this data to provide the hourly rates for
26 partners and associates in major metropolitan areas. In 2018, for the southern California area,
27 which is based on billing entries for 999 partners and 1,361 associates, the Real Rate Report
28 states that: (a) the median rate for partners in Los Angeles is \$695 and the upper quartile is \$995

per hour, and (b) the median rate for associates in Los Angeles is \$550 and the upper quartile is \$721 (2018 Kluwer Real Rate Report, page 21). And, perhaps most importantly, the information provided in the Real Rate Report is not based on self-reported numbers, surveys, sampling, or reviews or other publications – instead, the Real Rate Report is based on the actual hours and fees billed by law firms.

25. The table below includes a summary of the hours worked, plus an estimated 35 hours that I will bill in finalizing and filing the motion, preparing for and attending the approval hearing, and working with the claims administrator and defense counsel to finalize this matter. The total lodestar for my firm is approximately \$266,105 through the conclusion of this matter, as shown in the chart below:

Attorney/Timekeeper	Rate	Hours	Fee
Brian J. Mankin <i>Trial Counsel / Partner</i> (22 Years)	\$775	142²	\$110,050
Peter Carlson <i>Senior Associate</i> (9 Years)	\$575	271.4	\$156,055
Grand Total for All Attorneys			\$266,105

26. The fee is warranted because of the results achieved for the Class Members, both in terms of the immediate cash settlement, as well as the fact that the Class Members resoundingly supported the Settlement. Defendants do not oppose this fee request.

27. In the course of prosecuting this action, Class counsel have incurred expenses that were incidental and necessary to the effective representation of the Class. These expenses included but were not limited to: court filings, copying and management of documents, on-line Lexis research, messenger services, postage, fax transmission expenses, transportation, mediator fees including travel to mediation, and other incidental expenses directly related to this action. The Settlement Agreement provided up to \$20,000 in costs. Through final approval, my office

² Includes an estimated 35 hours of additional work preparing for and attending the hearing, as well as anticipated work to be performed after the final approval hearing with counsel, administrator, employees, and the court.

1 incurred \$13,068.74 in litigation costs (see Exhibit “B” attached hereto). The saving will be
2 placed in the Net Settlement Amount for payment to the Class Members. Defendants do not
3 oppose this request for costs.

4 REASONABLENESS OF REQUESTED SERVICE AWARDS

5 28. I also believe that the service award of \$5,000 for Plaintiff is fair and warranted
6 for the reasons outlined in his declarations and in the motion. He came forward and worked
7 directly with my office in analyzing the claims and documents, and providing valuable
8 information. (See his declaration for supporting information.) Indeed, his participation was an
9 essential element of Defendants’ desire to mediate and of the pre and post mediation analysis
10 that allowed Class Counsel to settle the case. Of course, he also took on various risks, including
11 the risk that he could have been ordered to pay Defendants’ costs if he lost and the risk of
12 retaliation and being black-balled in the industry. Finally, Defendants do not oppose the
13 requested service award.

14 SUBMISSION TO THE LWDA

15 29. The Motion and declarations, including the Settlement Agreement, have
16 concurrently been submitted to the LWDA. (See Exhibit “C”).

17 EXHIBITS AND CONCLUSION

18 30. A true and correct copy of the Settlement Agreement is attached hereto as Exhibit
19 “A.”

20 31. Attached hereto as Exhibit “B” is a true and correct copy of an itemized statement
21 of my firm’s litigation costs.

22 32. The LWDA’s confirmation of receipt of this Motion and Declaration is attached
23 hereto as Exhibit “C.”

24 33. For the foregoing reasons, it is respectfully requested that the Court grant final
25 approval of the settlement as being fair, reasonable, and in the best interest of the class, and
26 approve the requested attorneys’ fees, costs, and service award.

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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct. Executed on June 15, 2023, at Riverside, California.

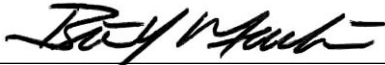
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5 Brian J. Mankin, Esq.
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EXHIBIT “A”

Brian J. Mankin, Esq. [SBN 216228]
brian@lmlfirm.com
Peter J. Carlson, Esq. [SBN 295611]
peter@lmlfirm.com
LAUBY MANKIN LAUBY LLP
5198 Arlington Avenue, PMB 513
Riverside, CA 92504
Tel: (951) 320-1444 | Fax: (951) 320-1445

Attorneys for Plaintiff and all others similarly situated

Alaya B. Meyers [SBN 199551]
ameyers@littler.com
Ian G. Robertson [SBN 283151]
irobertson@littler.com
LITTLER MENDELSON, P.C.
18565 Jamboree Road, Suite 800
Irvine, California 92612
Tel: (949) 705-3000

Attorneys for Defendants Andersen Distribution, Inc., Andersen Logistics Sacramento LLC,
Andersen Windows, Inc., and Renewal By Andersen LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

JOSEPH GREENDALE, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

ANDERSEN DISTRIBUTION, INC., a
Delaware Corporation; ANDERSEN
LOGISTICS SACRAMENTO LLC, a
Minnesota Limited Liability Company;
ANDERSEN WINDOWS, INC., a Minnesota
Corporation; RENEWAL BY ANDERSEN,
LLC, a Minnesota Limited Liability
Company; and DOES 1 through 20, inclusive;

Defendants.

Case No.: CIVDS2016569
*[Assigned to Honorable David Cohn, Dept.
S26, for all purposes]*

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE OF
CLAIMS**

Complaint filed: August 3, 2020

1 This Class Action Settlement Agreement and Release of Claims is entered into by and
2 between Plaintiff Joseph Greendale, individually and on behalf of all others similarly situated,
3 and Defendants Andersen Distribution, Inc., Andersen Logistics Sacramento LLC, Andersen
4 Windows, Inc., and Renewal By Andersen LLC, and is approved by their respective counsel of
5 record, subject to the terms and conditions hereof and the Court's approval.

6 **A. Definitions**

7 As used herein, for the purposes of this Settlement Agreement only, the following terms
8 shall be defined as set forth below:

9 1. "Action" or "Lawsuit" means and refers to the case entitled *Joseph Greendale v.*
10 *Andersen Distribution, Inc., et al.*, San Bernardino County Superior Court, Case No.
11 CIVDS2016569.

12 2. "Agreement" or "Settlement Agreement" shall mean this Class Action Settlement
13 Agreement and Release of Claims.

14 3. "Aggrieved Employees" means all current and former non-exempt employees of
15 Defendants in the State of California during the PAGA Period. Defendants represent that, as of
16 data through July 3, 2022 used at mediation, there were approximately 296 eligible Aggrieved
17 Employees.

18 4. "Attorneys' Fees and Costs Award" shall have the meaning ascribed to it in
19 Paragraph 50(f) below.

20 5. "Class Counsel" refers to Brian Mankin and Peter Carlson of Lauby Mankin
21 Lauby LLP.

22 6. "Class Data" means a complete list that Defendants will diligently and in good
23 faith compile from their records and provide to the Settlement Administrator on one spreadsheet
24 and shall include the Settlement Class Members' full names; last known addresses; telephone
25 numbers (if available); Social Security Numbers; the total Weeks Worked during the PAGA
26 Period for each Aggrieved Employee (subject to the limitations in Paragraph 38), and the total
27 Weeks Worked during the Class Period for each Settlement Class Member (subject to the
28 limitations in Paragraph 38).

1 7. “Class Period” is deemed to be any time during the period of August 3, 2016,
2 through November 27, 2022. However, because Renewal acquired the predecessor entities, Los
3 Angeles Custom Windows, Inc. and West Los Angeles Custom Windows, Inc. from Moore
4 Holdings in January 2019, and because Defendants do not have data for Class Members
5 employed by Renewal prior to that date, for Class Members employed by Renewal, the Class
6 Period shall be January 1, 2019 through November 27, 2022.

7 8. “Class Representative” or “Plaintiff” means and refers to Joseph Greendale.

8 9. “Complaint” refers to the operative complaint in the Action, alleging Class
9 Claims and representative PAGA Claims. Specifically, the operative complaint is the First
10 Amended Complaint which has been or will be filed by stipulation expeditiously.

11 10. “Court” (or “Judge”) means the California Superior Court, County of San
12 Bernardino.

13 11. “Defendants” or “Andersen Companies” means and refers to Defendants
14 Andersen Distribution, Inc., Andersen Logistics Sacramento LLC, Andersen Windows, Inc., and
15 Renewal by Andersen, LLC. “Renewal” shall mean and refer specifically to defendant Renewal
16 by Andersen LLC.

17 12. “Defendants’ Counsel” or “Defense Counsel” means and refers to Alaya B.
18 Meyers and Ian G. Robertson of Littler Mendelson, P.C.

19 13. “Effective Date” means the date upon which the Final Approval order becomes
20 final. For purposes of this Paragraph, the Final Approval order “becomes final” only after the
21 Court grants and enters the Final Approval order and upon the latter of: (i) if no appeal is filed,
22 the expiration date of the time for the filing or noticing of any appeal from, or other challenge to,
23 the order granting Final Approval (sixty-one (61) calendar days after the entry of the Final
24 Approval order); (ii) if a Class Member objects, intervenes, or files a motion to vacate the
25 judgment approving the Settlement Agreement, then sixty-one (61) calendar days following the
26 date the Court rules upon said objection, intervention or motion and enters an order granting
27 Final Approval, assuming no appeal is filed; or (iii) if a timely appeal is filed, the date of final
28 resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*),

1 resulting in final judicial approval of the Settlement.

2 14. “Final Approval” refers to the order of the Court granting final approval of this
3 Settlement Agreement and entering a judgment approving this Agreement on substantially the
4 terms provided herein or as the same may be modified by subsequent agreement of the Parties.

5 15. “Final Settlement Class” means, collectively, all Settlement Class Members who
6 have not opted out of the Settlement Class by submitting timely, Court-approved Requests for
7 Exclusion.

8 16. “Gross Settlement Amount” shall have the meaning ascribed to it in Paragraph
9 50(a) below.

10 17. “Individual Settlement Payment(s)” shall have the meaning ascribed to it in
11 Paragraph 50(c) below.

12 18. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 50(b)
13 below.

14 19. “Notice” means the notice of settlement of class action that will be sent to the
15 Settlement Class Members.

16 20. “Notice Response Deadline” is 30 calendar days from the date the Notice is
17 mailed to the Settlement Class Members.

18 21. “Objecting Settlement Class Member” means a Settlement Class Member, other
19 than Plaintiff, who submits a valid and timely objection to the terms of this Agreement with
20 respect to the Released Class Claims, pursuant to Paragraph 72(c) below.

21 22. “PAGA Penalties” means the amount that the Parties have agreed to pay to the
22 Labor and Workforce Development Agency (“LWDA”) in connection with the California Labor
23 Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”), as well
24 as the individual PAGA payment allocated to each Aggrieved Employee, as set forth further
25 below in Paragraph 50(h).

26 23. “PAGA Period” is deemed to be any time during the period of August 3, 2019,
27 through November 27, 2022.

28 24. “PAGA Released Claims” or “PAGA Claims” by the Aggrieved Employees upon

1 Final Approval of the Settlement means the PAGA claims that Plaintiff alleged against the
2 Released Parties, on behalf of the Aggrieved Employees and the State of California, based on the
3 facts stated in the operative complaint and in the relevant LWDA notice letters (*i.e.*, the original
4 LWDA letter submitted on June 15, 2020 and the amended LWDA letter submitted on December
5 22, 2022), including all PAGA claims seeking civil penalties premised upon: (a) failure to pay
6 minimum wages, (b) failure to pay overtime wages, (c) failure to provide meal periods, (d)
7 failure to provide rest breaks, (e) failure to pay vested vacation, (f) failure to failure to timely pay
8 wages each period, (g) failure to timely pay wages upon separation of employment, (h) failure to
9 provide accurate itemized wage statements, and (i) all other claims for civil penalties recoverable
10 under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.* or that reasonably could
11 have been alleged based upon the facts in the Action for alleged violations of the following
12 California Labor Code provisions: 200, 201, 201.3, 202, 203, 204, 208, 210, 212, 218.6, 221,
13 225.5, 226, 226.3, 226.7, 227.3, 256, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199,
14 2800 and 2802.

15 25. “Participating Class Member” means any and all Settlement Class Members who
16 are deemed to participate, who will receive an Individual Settlement Payment, and who do not
17 opt-out by submitting a timely, valid Request for Exclusion.

18 26. “Parties” or “Settling Parties” mean Plaintiff, the Settlement Class, and
19 Defendants, collectively.

20 27. “Preliminary Approval Date” means the date the Court approves the Settlement
21 Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

22 28. “Preliminary Approval Order” means the judicial Order to be entered by the
23 Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement
24 and providing for the issuance of the Notice to the Settlement Class, an opportunity to opt out of
25 the Settlement, an opportunity to submit timely objections to the Settlement, and setting a
26 hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees and
27 costs.

28 29. “QSF” means the Qualified Settlement Fund set up by the Settlement

1 Administrator for the benefit of the Final Settlement Class, and from which the settlement
2 payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue
3 Code Sec. 468.

4 30. “Released Class Claims” or “Class Claims” by the Participating Class Members
5 upon Final Approval of the Settlement will include all claims stated in the Complaint and those
6 based solely upon the facts in the Complaint, including: (a) failure to pay minimum wages, (b)
7 failure to pay overtime wages, (c) failure to provide meal periods, (d) failure to provide rest
8 breaks, (e) failure to pay vested vacation, sick leave, and/or paid time off (“PTO”), (f) failure to
9 timely pay wages upon separation of employment, (g) failure to provide accurate itemized wage
10 statements, (h) failure to reimburse business expenses, (i) unfair and unlawful competition, and
11 (j) all other claims that reasonably could have arisen out of the allegations made and facts alleged
12 in the Complaint. The Released Class Claims extend to all theories of relief regardless of
13 whether the claim is, was or could have been alleged as separate claims, causes of action,
14 lawsuits or based on other theories of relief, whether under federal law, state law or common law
15 (including, without limitation, as violations of the California Labor Code, the IWC Wage Orders,
16 applicable regulations, or California’s Business and Professions Code section 17200), and
17 includes all types of relief available for the above-referenced claims, including damages,
18 restitution, losses, penalties, attorneys’ fees, costs, expenses, interest, injunctive relief,
19 declaratory relief, or liquidated damages.

20 31. “Released Parties” means Defendants and their affiliated companies, parents,
21 members, subsidiaries, related companies and business concerns, past and present, and each of
22 them, as well as each of their insurers, partners, trustees, directors, shareholders, officers, agents,
23 attorneys, servants and employees, past and present, and each of them.

24 32. “Release” shall mean (1) the release and discharge of the Released Class Claims
25 by Plaintiff and all Participating Class Members, and (2) the release and discharge of the PAGA
26 Released Claims by Plaintiff, the State of California, and all of the Aggrieved Employees. The
27 *res judicata* effect of the Judgment will be the same as that of the Release of the Released Class
28 Claims and PAGA Released Claims.

1 33. “Request for Exclusion” means and refers to a valid and timely request for
2 exclusion from the Settlement of the Released Class Claims, which may be submitted by any
3 Settlement Class Member, other than Plaintiff, pursuant to Paragraph 72(a) below.

4 34. “Service Payment” or “Service Award” means, as set forth further in Paragraph
5 50(e) below, the amount approved by the Court to be paid to the Class Representative, Joseph
6 Greendale, in addition to his Individual Settlement Payment as a Participating Class Member.

7 35. “Settlement Administrator” means and refers to Phoenix Class Action
8 Administration Solutions, the third-party class action settlement administrator agreed to by the
9 Parties, that will provide the Notice to the Settlement Class and distribute the settlement amounts
10 as described in this Agreement.

11 36. “Settlement Administration Costs” means the costs payable from the Gross
12 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
13 but not limited to, printing, distributing, and tracking documents for this Settlement, tax
14 reporting, and deposit of the employee and employer share of payroll taxes, unclaimed property
15 due diligence, reporting and remittance obligations, distributing the Gross Settlement Amount,
16 and providing necessary reports and declarations, as requested by the Parties. The Settlement
17 Administration Costs shall be paid from the Settlement Amount, including, if necessary, any
18 such costs in excess of the amount represented by the Settlement Administrator as being the
19 maximum costs necessary to administer the Settlement.

20 37. “Settlement Class” consists of all current and former non-exempt employees of
21 Defendants in the State of California during the Class Period. Defendants represent that, as of
22 data through July 3, 2022 used at mediation, there were an estimated 501 eligible Class
23 Members.

24 38. “Settlement Class Member” or “Class Member(s)” refers to individual members
25 of the Settlement Class.

26 39. “Week(s) Worked” means all calendar weeks in which a Settlement Class
27 Member was employed by Defendants in California and worked at least one shift. Week(s)
28 Worked shall be calculated by Defendants using actual weeks of employment where available

1 from Defendants' data and extrapolations where not available.

2 **B. General Terms**

3 40. Plaintiff filed a class action and representative PAGA action complaint with the
4 Court on August 3, 2020 against Defendants and Does 1 through 20, alleging class and
5 representative PAGA claims, including: (1) failure to pay minimum wages, (2) failure to pay
6 overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure
7 to pay vested vacation, (6) failure to timely pay final wages, (7) failure to provide accurate
8 itemized wage statements, (8) unfair and unlawful competition pursuant to Business and
9 Professions Code §17200 *et seq.*, and (9) related claims under PAGA.

10 41. Defendants retained counsel and then filed a Motion to Compel Arbitration and
11 Stay Proceedings. On August 23, 2021, this Court denied Defendants' Motion to Compel
12 Arbitration and, thereafter, Defendants filed their Answer to Plaintiff's Complaint on or around
13 September 22, 2021.

14 42. On September 24, 2021, Defendants filed a Notice of Appeal regarding the
15 Court's order denying the Motion to Compel Arbitration. However, because the Parties agreed
16 to mediation in an attempt to informally resolve this Action without need for further judicial
17 intervention, the Court of Appeal stayed all briefing deadlines. As part of this Settlement,
18 pursuant to Paragraph 98, below, the Parties will seek to continue that stay pending Final
19 Approval of the Settlement.

20 43. Prior to mediation, the Parties conducted a thorough investigation into the facts of
21 the Action. This includes conducting an extensive exchange of informal discovery, including
22 Defendants' written policies and practices, as well as a robust sampling of payroll and
23 timekeeping for Settlement Class Members. Class Counsel is both knowledgeable about and has
24 done extensive research with respect to the applicable law and potential defenses to the claims of
25 the Settlement Class. Class Counsel has diligently pursued an investigation of the Class
26 Members' claims against Defendants. Based on the foregoing data and on their own independent
27 investigation and evaluation, Class Counsel is of the opinion that the settlement with Defendants
28 for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable,

1 and adequate and is in the best interest of the Class Members in light of all known facts and
2 circumstances, including the risk of significant delay and uncertainty associated with litigation,
3 various defenses asserted by Defendants, and numerous potential appellate issues.

4 44. On September 6, 2022, Plaintiff and Defendants participated in mediation before
5 David Phillips, Esq., a highly regarded wage-and-hour mediator. The Action did not resolve at
6 mediation, but the Parties continued negotiations and Mr. Phillips issued a mediator's proposal
7 which was accepted by the Parties on September 26, 2022. The Parties subsequently formalized
8 the terms of their acceptance of the mediator's proposal in a short-form Memorandum of
9 Understanding ("MOU"), which was fully executed as of December 1, 2022.

10 45. Pursuant to the terms of the Parties' settlement, as provided under the MOU and
11 for purposes of ensuring a full and complete release of all claims, Plaintiff has or will be filing a
12 First Amended Complaint by way of stipulation expeditiously and Plaintiff submitted an
13 amended LWDA letter on December 22, 2022.

14 46. Defendants deny Plaintiff's claims and allegations and contends that the Action is
15 not suitable for class certification or manageable as a class or representative action.

16 47. The Class Representative believes he can proceed with his representative and
17 class claims, that the Action is meritorious, and that class certification is appropriate.

18 48. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts
19 to be performed or judgments to be entered pursuant to the terms of the Settlement and
20 Agreement, shall be construed as an admission by Defendants of any wrongdoing or violation of
21 any statute or law or liability on the claims or allegations in the Action.

22 49. Stipulation to Class Certification and Representative Treatment. For settlement
23 purposes only, Defendants will stipulate that the Settlement Class Members described herein
24 who do not submit a timely Request for Exclusion from the Settlement Class may be
25 conditionally certified as a settlement class and that the Aggrieved Employees are appropriate for
26 representative treatment for purposes of settlement. This stipulation to certification and
27 representative treatment is in no way an admission that class action certification and/or
28 representative treatment is proper and shall not be admissible in this or in any other action except

1 for the sole purpose of enforcing this Agreement. Nor should Defendants’ stipulation to
2 conditional class certification and representative treatment be deemed as a waiver to any
3 additional defenses against class or representative action treatment, including but not limited to
4 Defendants’ right to exclude Settlement Class Members who signed binding arbitration
5 agreements from participating in this Action. Should, for whatever reason, the Court fail to issue
6 Final Approval, the Parties’ stipulation to class certification and representative treatment as part
7 of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not
8 be admissible in connection with, the issue of whether or not certification and/or representative
9 treatment would be appropriate in a non-settlement context. Defendants expressly reserve their
10 rights and declare that they would continue to oppose class certification, representative
11 treatment, and the substantive merits of the case should the Court decline to issue Final
12 Approval. Plaintiff expressly reserves his rights and declares that he will continue to pursue
13 class certification, representative treatment, and a trial should the Court decline to issue Final
14 Approval.

15 **C. Terms of Settlement**

16 50. The financial terms of the Settlement are as follows:

17 (a) Gross Settlement Amount: The Parties agree to settle this Action for
18 Seven Hundred Thousand Dollars and No Cents (\$900,000.00) (“the Gross Settlement
19 Amount”). The Gross Settlement Amount is the maximum amount that will be paid, and
20 includes Individual Settlement Payments, Attorneys’ Fees and Costs Award, the Service
21 Payment to the Class Representative, all Settlement Administration Costs, PAGA Penalties, and
22 interest. Defendants shall separately pay the employer’s share of applicable payroll tax
23 obligations due on the wage portions of the Individual Settlement Payments, which shall be
24 reported through the Settlement Administrator.

25 (b) Net Settlement Amount: The “Net Settlement Amount” is defined as the
26 Gross Settlement Amount less the court-approved Attorneys’ Fees and Costs Award, the court-
27 approved Service Payment to the Class Representative, the court-approved Settlement
28 Administration Costs, and PAGA Penalties. If the Court reduces the Attorneys’ Fees and Costs

Award, Service Payment to the Class Representative, or Settlement Administration Costs, or either increases or decreases the amount allocated to the PAGA Penalties, the Net Settlement Amount shall be increased or decreased accordingly.

(c) Individual Settlement Payments: Individual Settlement Payments for the Settlement Class will be calculated and apportioned from the Net Settlement Amount based on the number of Weeks Worked by a Settlement Class Member during the Class Period (as defined in Paragraph 38, above). Specific calculations of Individual Settlement Payments will be made as follows:

- Defendants will calculate the total number of Weeks Worked by each Settlement Class Member during the Class Period and the aggregate total number of Weeks Worked by all Settlement Class Members during the Class Period.

- To determine each Settlement Class Member's estimated Individual Settlement Payment, the Settlement Administrator will use the following formula: The Net Settlement Amount will be divided by the aggregate total number of Weeks Worked, resulting in the "Workweek Value." Each Settlement Class Member's Individual Settlement Payment will be calculated by multiplying his or her total number of Weeks Worked during the Class Period by the Workweek Value.

- Individual Settlement Payments will be reduced by any required deductions for each Participating Class Member as specifically set forth herein, including employee-side tax withholdings and deductions.

- The entire Net Settlement Amount will be disbursed to all Participating Class Members. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionally increase the Individual Settlement Payment for each Participating Class Member according to the number of Weeks Worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Amount.

(d) Allocation of Individual Settlement Payments: The Individual Settlement Payments will be allocated based on the allegations in the Action as follows: twenty percent (20%) will be allocated as wages subject to withholding of all applicable local, state and federal

1 taxes; forty percent (40%) will be allocated for interest from which no taxes will be withheld;
2 and forty percent (40%) will be allocated for penalties from which no taxes will be withheld.
3 The Settlement Administrator will issue to each Participating Class Member an Internal Revenue
4 Service Form W-2 and comparable state forms with respect to the wage allocation and a Form
5 1099 with respect to the penalties and interest allocations.

6 (e) Service Payment to Class Representative: The amount, if any, awarded to
7 the Class Representative as a Service Payment will be set by the Court in its discretion, not to
8 exceed Five Thousand Dollars and No Cents (\$5,000.00), in exchange for the services Plaintiff
9 performed on behalf of the Class (including taking steps to support the Settlement) and for
10 entering into the general and expansive release discussed hereinafter. Defendants agree not to
11 oppose this request if Plaintiff does not request exclusion from the Settlement Class and does not
12 take any action, directly or indirectly, to undercut this Settlement. The Service Payment to
13 Plaintiff will be paid out of the Gross Settlement Amount. The Class Representative will be
14 issued an IRS Form 1099 in connection with this payment. Plaintiff shall be solely and legally
15 responsible to pay any and all applicable taxes on this payment. The Parties agree that any
16 amount awarded as the Service Payment to Plaintiff less than the requested amount shall not be a
17 basis for Class Counsel to void this Settlement Agreement or to appeal this aspect of the Court's
18 ruling. Should the Court approve a lesser amount for the Service Payment, the difference shall
19 be added to the Net Settlement Amount to be distributed to the Participating Class Members.

20 (f) Attorneys' Fees and Costs Award: Defendants agrees to not oppose a
21 request by Class Counsel to the Court for an award of attorneys' fees of not more than one-third
22 of the Gross Settlement Amount, or Three Hundred Thousand Dollars and No Cents
23 (\$300,000.00), plus reasonable litigation costs not to exceed Twenty Thousand Dollars and No
24 Cents (\$20,000.00) (the "Attorneys' Fees and Cost Award"), subject to Court approval. The
25 Attorneys' Fees and Cost Award shall be paid from the Gross Settlement Amount, and except for
26 this award, Defendants shall have no further obligation to pay any attorneys' fees, costs, or
27 expenses to Class Counsel. Should the Court approve a lesser amount than what is sought by
28 Class Counsel, the difference shall be added to the Net Settlement Amount to be distributed to

1 the Participating Class Members. The Parties agree that any amount awarded as attorneys' fees
2 and costs to Class Counsel less than the requested amount shall not be a basis for Class Counsel
3 to rescind or otherwise void this Settlement Agreement. The Settlement Administrator shall
4 issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs
5 awarded by the Court.

6 (g) Settlement Administration Costs: The fees and other charges of the
7 Settlement Administrator will be paid from the Gross Settlement Amount, not to exceed Nine
8 Thousand Eight Hundred Seventy-Six Dollars and Sixty-Two Cents (\$9,876.62) unless approved
9 by all Parties and the Court.

10 (h) PAGA Penalties: The Parties agree that Sixty Thousand Dollars and No
11 Cents (\$60,000.00) is allocated to PAGA Penalties and is to be paid from the Gross Settlement
12 Amount, subject to the Court's approval. Of this amount, seventy-five percent (75%), or Forty-
13 Five Thousand Dollars and No Cents (\$45,000.00), shall be paid to the LWDA in satisfaction of
14 civil penalties under the Private Attorney General Act of 2004 ("PAGA") and twenty-five
15 percent (25%), or Fifteen Thousand Dollars and No Cents (\$15,000.00), will be paid to the
16 Aggrieved Employees based upon the number of Weeks Worked by each Aggrieved Employee
17 during the PAGA Period, which will be treated entirely as civil penalties and shall be reported as
18 required on an IRS Form 1099. Class Counsel shall give proper notice to the LWDA of the
19 Settlement. Because Renewal previously settled and resolved a PAGA-only action, *Guadalupe*
20 *Vargas v. Renewal by Andersen LLC, et al.*, Orange County Superior Court Case No. 30-2019-
21 01082294-CU-OE-CXC, with an effective release date of June 15, 2021 (the "*Vargas Release*"),
22 and because the *Vargas Release* covered all claims asserted in this Action other than those for
23 penalties pursuant to Cal. Labor Code §§ 200, 218.6, 221, 223, 227.3, 256, 1197, and 1199, as to
24 Aggrieved Employees employed by Renewal, Weeks Worked from August 3, 2019 through June
25 15, 2021 shall be assigned twenty-five percent (25%) of their actual value.

26 (i) Tax Liability: Class Counsel, Defendants, and Defendants' counsel make
27 no representations as to the tax treatment or legal effect of Settlement Amounts called for
28 hereunder, and Plaintiff and the Settlement Class Members are not relying on any statement or

representation by Class Counsel, Defendants, or Defendants' counsel in this regard. Plaintiff, Participating Class Members, and Aggrieved Employees understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective Settlement Amounts described herein. The amount of federal income tax withholding will be based upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made pursuant to applicable state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at the times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, are changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendants into compliance with any such changes. Plaintiff, Participating Class Members, and Aggrieved Employees understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective payments described herein and will hold Defendants harmless from and against any claims resulting from treatment of such payments as non-taxable damages.

(j) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX

1 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
2 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY
3 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
4 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
5 ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
6 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
7 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
8 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
9 ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
10 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF
11 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
12 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

13 51. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
14 Participating Class Members under this Agreement, as well as any other payments made
15 pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any
16 benefit plans to which any Settlement Class Members may be eligible, including, but not limited
17 to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase or other types of equity plans,
18 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
19 intention that this Settlement will not affect any rights, contributions, or amounts to which any
20 Settlement Class Members may be entitled under any benefit plans. The Parties agree that the
21 amounts paid pursuant to this Settlement are not for days or hours worked, and shall not be
22 included toward any regular rate of pay calculation, or any benefit vesting or accrual purpose.

23 52. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under
24 no circumstances will any portion of the Gross Settlement Amount revert to Defendants.
25 Participating Class Members will not have to make a claim in order to receive an Individual
26 Settlement Payment, and Aggrieved Employees will not have to make a claim in order to receive
27 their share of PAGA Penalties. Distributions, in the form of Individual Settlement Payments,
28 will be made directly to each Participating Class Member and Aggrieved Employee. The

1 Settlement Administrator shall be responsible for accurately and timely reporting and remittance
2 obligations with respect to unclaimed funds as a result of a Participating Class Member or
3 Aggrieved Employee not cashing an Individual Settlement Payment by the check cashing
4 deadline, as set forth herein.

5 53. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable, and
6 adequate, and will so represent same to the Court.

7 **D. Release by Plaintiff and the Settlement Class**

8 54. Upon entry of the Final Approval order and Defendants' funding of the
9 Settlement Amount, and except as to such rights or claims as may be created by this Settlement
10 Agreement, the Participating Class Members will forever completely release and discharge the
11 Released Parties from the Released Class Claims for the Class Period. It is the intent of the
12 Parties that the Final Approval Order and judgment entered by the Court shall have full equitable
13 and collateral estoppel and *res judicata* effect and be final and binding upon Participating Class
14 Members regarding the Released Class Claims.

15 55. Each Participating Class Member will be deemed to have made the foregoing
16 Release as if by manually signing it.

17 56. Upon entry of the Final Approval Order and Defendants' funding of the
18 Settlement Amount, Plaintiff, standing in the shoes of the Labor Commissioner/LWDA, and on
19 behalf of the State of California and all Aggrieved Employees, will forever completely release
20 and discharge the Released Parties from the PAGA Released Claims through the PAGA Period.
21 It is the intent of the Parties that the Final Approval Order and judgment entered by the Court
22 shall have full equitable and collateral estoppel and *res judicata* effect and be final and binding
23 upon Aggrieved Employees regarding the PAGA Released Claims.

24 57. Each Aggrieved Employee and the LWDA will be deemed to have made the
25 foregoing Release as if by manually signing it.

26 58. Plaintiff and Defendants intend that the Settlement described in this Agreement
27 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
28 arbitration, demand, or other action of any kind, by each and all of the Participating Class

Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released Class Claims. The Class Members shall be so notified in the Notice. This paragraph only applies to Participating Class Members and, thus, does not apply to any Class Member who timely and validly submits a Request for Exclusion, nor does it apply to Aggrieved Employees with respect to the PAGA Released Claims.

59. Plaintiff and Defendants also intend that the Settlement described in this Agreement will release and preclude any further PAGA claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other PAGA action of any kind, by each and all of the Aggrieved Employees to obtain a recovery based on, arising out of, and/or related to any and all of the PAGA Released Claims. The Aggrieved Employees shall be so notified in the Notice and Class Counsel shall provide appropriate notice to the LWDA of this Agreement prior to the filing of the Motion for Preliminary Approval. This section is not intended to preclude any Aggrieved Employee other than Plaintiff from bringing any claim other than a PAGA claim.

60. Class Representative, on behalf of himself and the Participating Class Members, acknowledges and agrees that the claims, including claims for unpaid wages and untimely payment of wages are disputed, and that the payments set forth herein constitute payment of all sums allegedly due to them. Class Representative, on behalf of himself and the Participating Class Members, acknowledges and agrees that California Labor Code § 206.5 is not applicable to the Parties hereto. Section 206.5 provides in pertinent part as follows:

An employer shall not require the execution of any release of any claim or right on account 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.

E. Release by Class Representative

61. Separate and apart from Plaintiff's release of the Released Class Claims and PAGA Released Claims, Plaintiff has entered into a separate individual settlement agreement for Plaintiff's separate individual claims not included in this Action (*i.e.*, claims for discrimination, retaliation, and wrongful termination).

1 62. As a condition of the separate individual settlement, and upon the Effective Date
2 herein, Plaintiff will completely release and discharge and covenant not to sue the Released
3 Parties with respect to any and all claims, demands, liens, agreements, contracts, covenants,
4 actions, suits, causes of action, wages, obligations, debts, liquidated damages, penalties, interest,
5 costs, expenses, attorneys' fees, damages, judgments, orders and liabilities of whatever kind or
6 nature in law, equity or otherwise, whether now known or unknown, suspected or unsuspected,
7 concealed or hidden, which Plaintiff now owns or holds or has at any time heretofore owned or
8 held as against said Released Parties, or any of them. Such released claims include specifically,
9 but not exclusively and without limiting the generality of the foregoing, any and all claims,
10 demands, agreements, obligations and causes of action, known or unknown, suspected or
11 unsuspected, concealed or hidden, including but not limited to all claims arising out of, based
12 upon, or relating to Class Representative's employment with Defendants or the remuneration for
13 or termination of such employment, as alleged in the operative Complaint, arising out of or in
14 any way connected with any transactions, occurrences, acts or omissions set forth, or facts
15 alleged, in any and all charges, complaints, claims or pleadings filed by Class Representative
16 against any Released Party prior to the date hereof with any city, county, state or federal agency,
17 commission, office or tribunal whatsoever; or arising out of or in any way connected with any
18 transactions, occurrences, acts or omissions occurring prior to the date hereof, including
19 specifically without limiting the generality of the foregoing any claim under Title VII of the
20 Civil Rights Act of 1964, the Age Discrimination in Employment Act (29 U.S.C. Section 621 *et*
21 *seq.*), the Americans with Disabilities Act, the Employee Retirement Income Security Act, the
22 National Labor Relations Act, the Fair Labor Standards Act, the Family and Medical Leave Act,
23 the California Constitution, the California Labor Code, the California Civil Code, the California
24 Government Code, the California Business & Professions Code, the California Family Rights
25 Act, the California Fair Employment and Housing Act, or any other federal, state, or local statute
26 or regulation (collectively, the "Class Representative's Claims").

27 63. Plaintiff shall also, as a condition of the separate individual settlement agreement
28 and upon the Effective Date herein, expressly waive and relinquish all rights and benefits

1 afforded by Section 1542 of the Civil Code of the State of California and does so understanding
2 and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil
3 Code of the State of California states:

4 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
5 THAT THE CREDITOR OR RELEASING PARTY DOES NOT
6 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
7 THE TIME OF EXECUTING THE RELEASE AND THAT, IF
8 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
OR RELEASED PARTY.

9 **F. Interim Stay of Proceedings**

10 64. Pending completion of all of the prerequisites necessary to effectuate this
11 Settlement, the Parties agree, subject to Court's approval, to a stay of all proceedings in the
12 Action except such as are necessary to effectuate the Settlement.

13 **G. Notice Process**

14 65. Appointment of Settlement Administrator. The Parties have agreed to the
15 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
16 including mailing the Notice, using standard devices to obtain forwarding addresses,
17 independently reviewing and verifying documentation associated with any claims or opt-out
18 requests, resolving any disputes regarding the calculation or application of the formula for
19 determining the Individual Settlement Payments, drafting and mailing the settlement checks to
20 Participating Class Members, and Aggrieved Employees, issuing W-2 and 1099 Tax Forms,
21 performing unclaimed funds due diligence, reporting and performing remittance obligations, and
22 performing such other tasks as set forth herein or as the Parties mutually agree or that the Court
23 orders.

24 66. Disputes Regarding Settlement Administration. Any and all disputes relating to
25 administration of the Settlement by the Settlement Administrator (except for disputes regarding
26 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
27 over the terms and conditions of this Settlement Agreement, until Plaintiff and Defendants notify
28 the Court that all payments and obligations contemplated by this Settlement Agreement have

1 been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will
2 confer in good faith to resolve the dispute without the necessity of Court intervention. The
3 Settlement Administrator shall also be responsible for issuing to Plaintiff, Participating Class
4 Members, Aggrieved Employees, and Class Counsel any W-2, 1099, or other Tax Forms as may
5 be required by law for all amounts paid pursuant to this Agreement. The Settlement
6 Administrator shall also be responsible for setting up all necessary tax accounts and forwarding
7 all payroll taxes and penalties to the appropriate government authorities.

8 67. Class Data. Within fourteen (14) calendar days after entry of the Preliminary
9 Approval Order, Defendants shall provide the Class Data to the Settlement Administrator. The
10 Settlement Administrator will run a check of the Class Members' addresses against those on file
11 with the U.S. Postal Service's National Change of Address Database. The Class Data provided
12 to the Settlement Administrator will remain confidential, shall be used solely to administer the
13 Settlement, and it will not be used or disclosed to anyone (including Class Counsel), except as
14 required by applicable tax authorities, pursuant to Defendants' express written consent, or by
15 order of the Court. Although Class Counsel will not be provided with the list of Class Data,
16 nothing herein shall prevent Class Counsel from communicating with Class Members regarding
17 the Action and Settlement.

18 68. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
19 Administrator to the Settlement Class Members, by first class mail, in English and Spanish,
20 within ten (10) calendar days following the Settlement Administrator's receipt of the Class Data.
21 The Settlement Administrator shall use standard devices, including a skip trace, to obtain
22 forwarding addresses of Settlement Class Members if any envelopes are returned.

23 69. Returned Notices of Settlement. The Settlement Administrator will take steps to
24 ensure that the Notice is received by all Settlement Class Members, including utilization of the
25 National Change of Address Database maintained by the United States Postal Service to review
26 the accuracy of and, if possible, update a mailing address. Notices of Settlement will be re-
27 mailed to any Settlement Class Member for whom an updated address is located within ten (10)
28 calendar days following both the Settlement Administrator learning of the failed mailing and its

1 receipt of the updated address. The re-mailed Notice shall be identical to the original Notice,
2 except that it shall notify the Settlement Class Member that the exclusion (opt-out) request or
3 objection must be returned by the later of the Notice Response Deadline or fifteen (15) days after
4 the remailing of the Notice.

5 70. Disputes Regarding Information on Notices of Settlement. Class Members are
6 deemed to participate in the Settlement, unless they timely opt-out, and Aggrieved Employees
7 may not opt out of the PAGA Released Claims. The Notice will inform Class Members of
8 his/her estimated Individual Settlement Payment and the number of Weeks Worked during the
9 Class Period and during the PAGA Period. Class Members may dispute their Weeks Worked if
10 they feel they should be credited with more Weeks Worked than Defendants' records show by
11 timely submitting evidence to the Settlement Administrator. Defendants' records will be
12 presumed determinative absent reliable evidence to rebut Defendants' records, but the Settlement
13 Administrator will evaluate the evidence submitted by the Class Member and provide the
14 evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good
15 faith about the evidence to determine the Class Member's actual number of Weeks Worked and
16 estimated Individual Settlement Payment. If Class Counsel and Defense Counsel are unable to
17 agree, they agree to submit the dispute to the Settlement Administrator to render a final decision.
18 Class Members will have until the Notice Response Deadline to dispute Weeks Worked, object
19 or opt out, unless extended by the Court. In the event that the Settlement Administrator increases
20 the number of Weeks Worked for any Settlement Class Member, then the Settlement
21 Administrator will recalculate the Participating Class Members' Individual Settlement Payments;
22 accordingly, in no event will Defendants be required to increase the Gross Settlement Amount.

23 71. Declaration of Due Diligence. The Settlement Administrator shall provide
24 counsel for the Parties, at least twenty-five (25) calendar days prior to the final approval hearing,
25 a declaration of due diligence and proof of mailing with regard to the mailing of the Notices of
26 Settlement.

27 72. Settlement Class Members' Rights. Each Settlement Class Member will be fully
28 advised of the Settlement, the ability to object to the provisions in the Settlement related to the

Released Class Claims, and the ability to opt-out or request exclusion from the Settlement with respect to the Released Class Claims. The Notice will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Settlement with respect to the Released Class Claims in accordance with the following guidelines:

(a) Requests for Exclusion from Participating in the Settlement Class. Any Settlement Class Member, other than Plaintiff, may request to be excluded from the Settlement Class by submitting a “Request for Exclusion” to the Settlement Administrator, postmarked on or before the Notice Response Deadline. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE ANDERSEN LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

To be valid, any Request for Exclusion must include the full name, address, telephone number, last four digits of the social security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address set forth in the Notice. Any such Request must be made in accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Agreement with respect to the Released Class Claims, including the right to object, appeal, or comment on the Settlement; (ii) will not be entitled to receive any payments under this Agreement for the Released Class Claims; and (iii) will not be bound by this Agreement, or the Judgment, with respect to the Released Class Claims. Any Aggrieved Employee who requests timely exclusion will still be subject to the PAGA Released Claims to the fullest extent permitted by law and shall be sent his or her share of PAGA Penalties.

(b) Binding Effect on Participating Class Members. Except for those

1 Settlement Class Members who exclude themselves in compliance with the procedures set forth
2 above, all Settlement Class Members will: (i) be deemed to be Participating Class Members for
3 all purposes under this Agreement; (ii) will be bound by the terms and conditions of this
4 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise
5 provided herein, will be deemed to have waived all objections and oppositions to the fairness,
6 reasonableness, and adequacy of the Settlement.

7 (c) Objections to Settlement of the Released Class Claims. Any Settlement
8 Class Member, other than Plaintiff, may object to the terms of this Agreement, except as to the
9 PAGA Released Claims. To object, a Settlement Class Member shall inform the Settlement
10 Administrator, in writing, of his or her objection which must be postmarked by the Notice
11 Response Deadline at the address set forth in the Notice. Such objection shall include the
12 objecting Settlement Class Member's full name, address, telephone number, last four digits of
13 the social security number or date of birth, signature, and dates of employment with Defendants,
14 in addition to the case name and number, the basis for the objection, including any legal support
15 and each specific reason in support of the objection, as well as any documentation or evidence in
16 support thereof, and, if the Objecting Settlement Class Member is represented by counsel, the
17 name and address of his or her counsel. The Settlement Administrator shall provide objections,
18 if any, to Class Counsel and Defense Counsel within three (3) calendar days of receipt, and the
19 Settlement Administrator shall attach the same to its declaration of due diligence and file with
20 the Court prior to the Final Approval Hearing. Any Participating Class Member who files an
21 objection remains eligible to receive monetary compensation from the Settlement. Plaintiff and
22 Defendants shall not be responsible for any fees, costs, or expenses incurred by any Class
23 Member and/or his or her counsel related to any objections to the Settlement. Submitting an
24 objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is
25 preserved by becoming a party of record by timely and properly intervening or filing a motion to
26 vacate the judgment under Code of Civil Procedure Section 663. Settlement Class Members and
27 Aggrieved Employees may not object to or opt-out of the Settlement with respect to the PAGA
28 Released Claims.

1 (d) Failure to Object. Any Settlement Class Member who desires to object to
2 the Released Class Claims in the Settlement but fails to timely submit a written objection or in
3 person objection at the Final Approval Hearing waives any right to object and will be foreclosed
4 from making any objection to this Settlement. Any Settlement Class Member who does not
5 timely and properly become a party of record by intervening or filing a motion to vacate the
6 judgment waives any and all rights to appeal from the Judgment, including all rights to any post-
7 judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for
8 new trial, a motion under California Code of Civil Procedure Section 473, and extraordinary
9 writs.

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

13 (f) Settlement Class Members will have until the Notice Response Deadline
14 to object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The
15 Settlement Administrator shall disclose jointly to Class Counsel and Defendants' counsel what
16 objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the
17 request of Class Counsel or Defense Counsel.

18 (g) Defective Submissions. If a Settlement Class Member's Request for
19 Exclusion or objection is defective as to the requirements listed herein, that Settlement Class
20 Member will be given an opportunity to cure the defect(s). The Settlement Administrator will
21 mail the Settlement Class Member a cure letter within three (3) business days of receiving the
22 defective submission to advise the Settlement Class Member that his or her submission is
23 defective and that the defect must be cured to render the Request for Exclusion or objection
24 valid. The Settlement Class Member will have the later of (i) the Notice Response Deadline or
25 (ii) 15 calendar days from the date of the cure letter to postmark or fax a revised Request for
26 Exclusion or objection. If the revised Request for Exclusion or objection is not postmarked or
27 received by fax within that period, it will be deemed untimely and disregarded.

28 73. Funding of the Settlement Amount. Defendants shall make a one-time deposit

1 into the QSF of the Gross Settlement Amount within thirty (30) calendar days after the Effective
2 Date. Defendants separately shall pay their share of employer payroll taxes as calculated and
3 directed by the Settlement Administrator. Once Defendants have complied with their obligation
4 set forth in this paragraph, they shall be deemed to have satisfied all of the terms and conditions
5 of this Agreement, shall be entitled to all the protections afforded to them under the Agreement,
6 and shall have no further obligations under the Agreement, regardless of what occurs with
7 respect to the further administration of the Settlement. The Settlement Administrator (and not
8 Defendants) shall issue the applicable W-2s and IRS Form 1099 reflecting all payments to the
9 Class Members.

10 74. Distribution of Funds. No later than ten (10) calendar days after the deposit of the
11 Gross Settlement Amount into the QSF, the Settlement Administrator will mail the Individual
12 Settlement Payments to the Participating Class Members, the payment to Class Counsel for the
13 Attorneys' Fees and Costs Award, any Service Payment to the Class Representative, the payment
14 to the LWDA for PAGA penalties, and will pay itself the Settlement Administration Costs.

15 75. Deadline for Cashing Settlement Checks. Participating Class Members and
16 Aggrieved Employees shall have 180 calendar days after mailing by the Settlement
17 Administrator to cash their settlement checks. If any Participating Class Member's or Aggrieved
18 Employee's check is not cashed within that period, the check will be void and a stop-payment
19 will be issued, and the Settlement Administrator shall issue the unclaimed funds to the California
20 State Controller's Office in the name of the Class Member or Aggrieved Employee. The release
21 will be binding upon all Participating Class Members and Aggrieved Employees who do not cash
22 their checks within the 180-day period. In the event that any settlement check is returned to the
23 Settlement Administrator within 180 days of mailing, the Settlement Administrator will, within
24 five (5) business days of receipt of the returned settlement check, perform a skip trace to locate
25 the individual, and notify Defense Counsel and Class Counsel of the results. If a new address is
26 located by these means, the Administrator will have ten (10) business days to re-issue the check.
27 Neither Defendants, Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator
28 will have any liability for lost or stolen settlement checks, forged signatures on settlement

1 checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the
2 event a Participating Class Member or Aggrieved Employee notifies the Settlement
3 Administrator that he or she believes that a settlement check has been lost or stolen, the
4 Settlement Administrator shall immediately stop payment on such check. If the check in
5 question has not been negotiated prior to the stop payment order, the Settlement Administrator
6 will issue a replacement check.

7 76. No person shall have any claim against Defendants or the Released Parties,
8 Defendants' Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on
9 mailings, distributions, payments or reports made in accordance with or pursuant to this
10 Agreement. This provision does not, however, prevent a Party from seeking enforcement of this
11 Agreement.

12 77. Without prejudice to any other remedies, the Settlement Administrator shall agree
13 to be responsible for any breach of its obligations (whether committed by the Settlement
14 Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless
15 from and against all liabilities, claims, causes of action, costs and expenses (including legal fees
16 and expenses) arising out of any breach committed by the Settlement Administrator or its agents.

17 **H. Duties of the Parties Prior to the Court's Approval**

18 78. Promptly after execution of this Settlement Agreement, Plaintiff will move the
19 Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order
20 accomplishing the following:

21 (a) Scheduling the Final Approval Hearing on the issue of whether this
22 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members
23 and a hearing on fees, costs and the Service Payment;

24 (b) Approving as to form and content of the proposed Notice;

25 (c) Directing the mailing of the Notice by first class mail to the Settlement
26 Class Members;

27 (d) Preliminarily approving this Settlement; and

28 (e) Preliminarily certifying the class solely for purposes of this Settlement.

79. Reallocation of Settlement Proceeds. In the event the Court fails, on its first hearing, to approve this Agreement because the amount of the PAGA Penalties is not adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within this Agreement, in order to try to achieve Final Approval of the Agreement upon any subsequent Court hearings.

I. Duties of the Parties Following Court's Final Approval

80. In connection with the Final Approval Hearing provided for in this Settlement Agreement, Class Counsel shall submit a proposed Final Approval order:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payment to the Class Representative, and the payment to the Settlement Administrator for costs of administering the settlement; and

(c) Entering judgment approving settlement, thereby permanently barring all Participating Class Members from prosecuting any Released Class Claims against any of the Released Parties and permanently barring all Aggrieved Employees and the LWDA from prosecuting any PAGA Released Claims against any of the Released Parties.

81. Final Judgment. The Settlement Administrator shall give the Participating Class Members and Aggrieved Employees notice of the entry of Final Judgment on a postcard or letter that will be included with the Individual Settlement Payments.

J. Voiding the Agreement

82. All Parties, signatories, and their counsel shall not encourage opt-outs or objections to this Agreement. The Parties specifically agree not to solicit opt-outs, directly or indirectly, through any means.

83. If the Settlement is voided or fails for any reason, Plaintiff and Defendants will have no further obligations under the Settlement, including any obligation by Defendants to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

84. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendants and Plaintiff, unless otherwise specified in this Agreement.

K. Other Terms

85. Waiver. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

86. Full and Complete Defense. This Agreement may be pleaded by any Released Party as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted or attempted, asserting any Released Claim.

87. Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof. The signatories hereto further represent that the Parties to this Agreement are represented by competent counsel, and they have had an opportunity to consult with counsel prior to authorizing its execution.

88. No Publicity. The Parties will not publicize the Settlement or disclose it to third parties, except as required or necessary to effectuate its terms and comply with law, including the payment of taxes. Specifically, Plaintiff and Plaintiff's counsel shall not publicize the settlement on their websites, in advertising/marketing materials or on social media. The Parties and their counsel agree that they will not issue any press releases or initiate any contact with the media about the fact, amount, or terms of the settlement. If counsel for any party receives an inquiry about the settlement from the media, counsel may respond only after the motion for preliminary approval of the settlement has been filed and only by confirming the accurate terms of the settlement. Nothing in this provision shall prevent Defendants from making any required disclosure.

89. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the

1 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their
2 best efforts, including all efforts contemplated by this Settlement Agreement and any other
3 efforts that may become necessary by order of the Court, or otherwise, to effectuate this
4 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of
5 this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
6 Defendants and Defendants' Counsel, take all necessary steps to secure the Court's preliminary
7 and final approval of the settlement, and the final entry of judgment. Class Counsel shall provide
8 Defendants' Counsel with drafts of the Preliminary Approval Motion and Final Approval Motion
9 for review at least five (5) court days prior to the respective filing deadlines.

10 90. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
11 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 released and discharged by this Settlement Agreement.

14 91. No Admission. Defendants deny any and all liability to Plaintiff and/or any
15 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
16 that might have been asserted in this Action. Nonetheless, Defendants wish to settle and
17 compromise the matters at issue in the Complaint to avoid further substantial expense and the
18 inconvenience and distraction of protracted and burdensome litigation. Defendants also have
19 taken into account the uncertainty and risks inherent in litigation, and without conceding any
20 infirmity in the defenses that they have asserted or could assert against Plaintiff, have determined
21 that it is desirable and beneficial that Plaintiff's claims be settled in the manner and upon the
22 terms and conditions set forth in this Agreement.

23 92. Inadmissibility of Agreement. Whether or not the Court issues the Final
24 Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement,
25 is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on
26 the part of Defendants or any of the other Released Parties. Each of the Parties hereto has
27 entered into this Settlement Agreement with the intention of avoiding further disputes and
28 litigation with the attendant inconvenience and expenses. This Settlement Agreement is a

1 settlement document, and it, along with all related documents such as the notices, and motions
2 for preliminary and final approval, shall, pursuant to California Evidence Code section 1152
3 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an
4 action or proceeding to approve the settlement, and/or interpret or enforce this Settlement
5 Agreement. The stipulation for class certification as part of this Settlement Agreement is for
6 settlement purposes only and if, for any reason the settlement is not approved, the stipulation will
7 have no force or effect.

8 93. Notices. Unless otherwise specifically provided herein, all notices, demands, or
9 other communications pursuant to this Agreement shall be in writing and shall be deemed to
10 have been duly given as of the third business day after mailing by United States registered or
11 certified mail, return receipt requested, addressed:

12 To the Settlement Class Members and Aggrieved Employees:

13 Brian Mankin
14 *brian@LMLfirm.com*
15 Lauby Mankin Lauby LLP
16 5198 Arlington Avenue, PMB 513
17 Riverside, CA 92504
18 Tel: (951) 320-1444 | Fax: (951) 320-1445

19 To Defendants:

20 Alaya Meyers
21 *ameyers@littler.com*
22 Littler Mendelson, P.C.
23 18565 Jamboree Road, Suite 800
24 Irvine, CA 92612
25 Tel: 949.705.3000

26 94. Construction. The Parties hereto agree that the terms and conditions of this
27 Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the
28 Parties and that this Settlement Agreement shall not be construed in favor of or against any Party
by reason of the extent to which any Party or his or its counsel participated in the drafting of this
Settlement Agreement. Plaintiff and Defendants expressly waive the common-law and statutory
rule of construction that ambiguities should be construed against the drafter of an agreement and

1 further agree, covenant, and represent that the language in all parts of this Agreement shall be in
2 all cases construed as a whole, according to its fair meaning.

3 95. Captions and Interpretations. Paragraph titles or captions contained herein are
4 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or
5 describe the scope of this Settlement Agreement or any provision hereof. Each term of this
6 Settlement Agreement is contractual and not merely a recital.

7 96. Modification. This Settlement Agreement may not be changed, altered, or
8 modified, except in writing and signed by the Parties hereto, and approved by the Court. This
9 Settlement Agreement may not be discharged except by performance in accordance with its
10 terms or by a writing signed by all of the Parties hereto.

11 97. Blow-Up Provision. Defendants will have the sole discretion and option to
12 withdraw from this Settlement if the number of opt-outs exceeds five percent (5%) of Settlement
13 Class Members. Defendants must exercise this option within ten (10) calendar days of
14 notification from the Settlement Administrator that this clause has been triggered, *i.e.*, that more
15 than five percent (5%) of Settlement Class Members have submitted valid Requests for
16 Exclusion. Should Defendants exercise this option, Defendants will be solely responsible for the
17 costs and fees of the Settlement Administrator to date. Additionally, the Settlement will be
18 deemed null and void in all respects.

19 98. Pending Appeal. Defendants currently have pending in the Court of Appeal for
20 the State of California, 4th Appellate District Division 2, an appeal of the denial of Defendants'
21 motion to compel arbitration of Plaintiff's claims in the Action, Case No. E077821 (the
22 "Appeal"). Defendants shall seek, and Plaintiff agrees to, a continuing stay of the Appeal
23 pending the Court's approval of the Motion for Final Approval. The stay will only be lifted upon
24 the Court granting Final Approval of the Settlement; the Court refusing or declining to grant
25 Final Approval of the Settlement; or Plaintiff or Defendants withdrawing from the Settlement.
26 Class Counsel and Plaintiff agree to cooperate as necessary to effectuate the temporary stay of
27 the Appeal. Upon the Court granting Final Approval of the Settlement, Defense Counsel and
28 Defendants shall promptly take all necessary steps to dismiss the Appeal.

1 99. No Bearing on Arbitration Agreements. The Parties have agreed to settle the
2 Action in Court, including Released Class Claims, for the mutual benefit of the Parties and
3 Settlement Class Members. The MOU, this Settlement Agreement, and the settlement process
4 (including but not limited to motions, correspondences, communications and filings) and
5 proceedings related to them shall have no impact on individual arbitration agreements in place
6 between Defendants and Settlement Class Members. The proposed settlement on a class basis is
7 solely for the purposes of settlement and shall not be deemed as an invalidation, waiver, and/or
8 avoidance of the arbitration agreements, and shall have no negative impact on their continuing
9 validity. By failing to submit a Request for Exclusion, any Participating Class Member will be
10 deemed to have agreed to the provisions of this Paragraph.

11 100. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
12 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall
13 provide written notice to the other Party and allow an opportunity to cure the alleged
14 deficiencies, and Plaintiff and Defendants agree to seek the help of the mediator identified in this
15 Agreement to resolve any dispute they are unable to resolve informally. During this period, the
16 Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any legal
17 action or other proceeding instituted by any person or entity other than Plaintiff or Defendants.

18 101. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of
19 dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure
20 Section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action
21 over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations
22 of this Agreement.

23 102. Enforceability. Pursuant to California Evidence Code Section 1123(a) and (b),
24 this Agreement is intended by the Parties to be, and shall be, enforceable, binding, and
25 admissible in a court of law.

26 103. Choice of Law. This Settlement Agreement shall be governed by and construed,
27 enforced and administered in accordance with the laws of the State of California.

28 104. Integration Clause. This Settlement Agreement contains the entire agreement

1 between the Parties relating to the settlement and transaction contemplated hereby, and all prior
2 or contemporaneous agreements, understandings, representations, and statements, whether oral
3 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights
4 hereunder may be waived except in writing.

5 105. Binding On Assigns. This Settlement Agreement shall be binding upon and inure
6 to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
7 successors, and assigns.

8 106. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
9 because the members of the Settlement Class are numerous, it is impossible or impractical to
10 have each Class Member execute this Settlement Agreement. The Notice will advise all
11 Settlement Class Members of the binding nature of the releases provided herein and such shall
12 have the same force and effect as if this Settlement Agreement were executed by each Settlement
13 Class Member.

14 107. Invalidity of Any Provision. Before declaring any provision of this Settlement
15 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest
16 extent possible consistent with applicable precedents so as to define all provisions of this
17 Settlement Agreement valid and enforceable.

18 108. Counterparts. This Settlement Agreement may be executed in counterparts, and
19 when each Party has signed and delivered at least one such counterpart, each counterpart shall be
20 deemed an original, and, when taken together with other signed counterparts, shall constitute one
21 fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties.
22 Electronic signatures shall have the same force and effect as an original.

23 Dated: December 22, 2022

PLAINTIFF AND CLASS REPRESENTATIVE:

24 
Joseph Greendale (Dec 22, 2022 19:47 MST)

25 Joseph Greendale
26
27
28

1 Dated: January 6, 2023

DEFENDANT:
ANDERSEN DISTRIBUTION, INC.



2
3
4 By: Alan E. Bernick

5 Title: Senior Vice President, Chief Legal Officer

6
7 Dated: January 6, 2023

DEFENDANT:
ANDERSEN LOGISTICS SACRAMENTO LLC



8
9
10 By: Alan E. Bernick

11 Title: Senior Vice President, Chief Legal Officer

12
13 Dated: January 6, 2023

DEFENDANT:
ANDERSEN WINDOWS, INC.



14
15
16 By: Alan E. Bernick

17 Title: Senior Vice President, Chief Legal Officer

18
19 Dated: January 6, 2023

DEFENDANT:
RENEWAL BY ANDERSEN LLC



20
21
22 By: Alan E. Bernick

23 Title: Senior Vice President, Chief Legal Officer

1 Approved as to form:

2 Dated: December 27, 2022

CLASS COUNSEL:
LAUBY MANKIN LAUBY LLP



Brian J. Mankin
Peter J. Carlson
Attorneys for Plaintiff

8 Dated: December ____, 2022

DEFENDANTS' COUNSEL:
LITTLER MENDELSON, P.C.

Alaya B. Meyers
Ian G. Robertson
Attorneys for Defendants

END OF DOCUMENT

1 Approved as to form:

2 Dated: December ____, 2022

CLASS COUNSEL:
LAUBY MANKIN LAUBY LLP

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Brian J. Mankin
Peter J. Carlson
Attorneys for Plaintiff

January 2023
Dated: ~~December~~ 9, 2022

DEFENDANTS' COUNSEL:
LITTLER MENDELSON, P.C.



Alaya B. Meyers
Ian G. Robertson
Attorneys for Defendants

END OF DOCUMENT

EXHIBIT “B”

All Expenses

Lauby, Mankin & Lauby LLP

Staff Member = All (Active Only)
Group By Staff Member Group
Client - Project = 14000-00432 Greendale v
Andersen (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Joseph Greendale</u> <u>14000-00432 Greendale v Andersen</u>									
06-15-2020	Approved		Non-Billable	E112 Court fees	Aguilera, Sophia J.	75.00	0.00	1.00	75.00
LWDA - Check # 568									
06-30-2020	Approved		Non-Billable	E101 Copying	Aguilera, Sophia J.	0.06	0.00	196.00	11.76
196 copies @ \$0.06 for letters to LWDA and employer									
06-30-2020	Approved		Non-Billable	E108 Postage	Aguilera, Sophia J.	46.50	0.00	1.00	46.50
Postage for the month of June 2020									
07-29-2020	Approved		Non-Billable	E112 Court fees	Aguilera, Sophia J.	1,435.00	0.00	1.00	1,435.00
Clerk of The Court - Complaint - Check# 582									
07-31-2020	Approved		Non-Billable	E101 Copying	Aguilera, Sophia J.	0.06	0.00	258.00	15.48
168 copies @ \$0.06 for amended LWDA letter									
90 copies \$0.06 for Complaint to court									
07-31-2020	Approved		Non-Billable	E108 Postage	Aguilera, Sophia J.	49.45	0.00	1.00	49.45
Postage for the month of July 2020									
08-31-2020	Approved		Non-Billable	Attorney Service	Aguilera, Sophia J.	9.64	0.00	1.00	9.64
Budget Conferencing Inv 29811345 for 8-17-20									
09-11-2020	Approved		Non-Billable	Attorney Service	Aguilera, Sophia J.	70.50	0.00	1.00	70.50
Bosco Inv 4841587 Serve: ANDERSEN DISTRIBUTION, INC., A DELAWARE CORPORATION SUMMONS: COMPLAINT; CIVIL CASE COVER SHEET; CERTIFICATE OF ASSIGNMENT; INITIAL CASE MANAGEMENT CONFERENCE ORDER; GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM; ADR Court: San Bernardino County Superior Court - Central District									
09-11-2020	Approved		Non-Billable	Attorney Service	Aguilera, Sophia J.	64.50	0.00	1.00	64.50
Bosco Inv 4841592 Serve: ANDERSEN LOGISTICS SACRAMENTO LLC, A MINNESOTA LIMITED LIABILITY COMPANY SUMMONS: COMPLAINT; CIVIL CASE COVER SHEET; CERTIFICATE OF ASSIGNMENT; INITIAL CASE MANAGEMENT CONFERENCE ORDER; GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM; ADR Court: San Bernardino County Superior Court - Central District									
09-11-2020	Approved		Non-Billable	Attorney Service	Aguilera, Sophia J.	64.50	0.00	1.00	64.50

All Expenses

Lauby, Mankin & Lauby LLP

Staff Member = All (Active Only)
Group By Staff Member Group
Client - Project = 14000-00432 Greendale v Andersen (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Joseph Greendale</u> <u>14000-00432 Greendale v Andersen</u>									
Bosco Inv 4841595 Serve: ANDERSEN WINDOWS, INC., A MINNESOTA CORPORATION SUMMONS; COMPLAINT; CIVIL CASE COVER SHEET; CERTIFICATE OF ASSIGNMENT; INITIAL CASE MANAGEMENT CONFERENCE ORDER; GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM; ADR Court: San Bernardino County Superior Court - Central District									
09-11-2020	Approved		Non-Billable	Attorney Service	Aguilera, Sophia J.	104.45	0.00	1.00	104.45
Bosco Inv 4841604 Serve: RENEWAL BY ANDERSEN, LLC, A MINNESOTA LIMITED LIABILITY COMPANY SUMMONS; COMPLAINT; CIVIL CASE COVER SHEET; CERTIFICATE OF ASSIGNMENT; INITIAL CASE MANAGEMENT CONFERENCE ORDER; GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM; ADR Court: San Bernardino County Superior Court - Central District									
09-30-2020	Approved		Non-Billable	E101 Copying	Aguilera, Sophia J.	0.06	0.00	16.00	0.96
16 copies @ \$0.06 for POS to Court									
09-30-2020	Approved		Non-Billable	E108 Postage	Aguilera, Sophia J.	0.65	0.00	1.00	0.65
Postage for the month of September 2020									
10-07-2020	Approved		Non-Billable	Attorney Service	Aguilera, Sophia J.	20.00	0.00	1.00	20.00
Budget Conferencing Inv 29906438									
01-12-2021	Approved		Non-Billable	Attorney Service	Aguilera, Sophia J.	94.00	0.00	1.00	94.00
CourtCall ID #11037431 for Case Management Conference on 1-8-21									
02-26-2021	Approved		Non-Billable	E101 Copying	Aguilera, Sophia J.	0.06	0.00	8.00	0.48
8 copies @ \$0.06 for Notice of Name Change									
02-26-2021	Approved		Non-Billable	E108 Postage	Aguilera, Sophia J.	0.51	0.00	1.00	0.51
Postage for the month of February 2021									
03-30-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Sophia J.	94.00	0.00	1.00	94.00
CourtCall ID #11153188 for 3-29-21 hearing									
06-01-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Sophia J.	94.00	0.00	1.00	94.00
CourtCall ID #11233004 for 5-28-21 hearing									
08-06-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Sophia J.	6.60	0.00	1.00	6.60
Los Angeles County Superior Court Receipt No. 1210806J8383 for copy of docs									

All Expenses

Lauby, Mankin & Lauby LLP

Staff Member = All (Active Only)
Group By Staff Member Group
Client - Project = 14000-00432 Greendale v
Andersen (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Joseph Greendale</u> <u>14000-00432 Greendale v Andersen</u>									
08-11-2021	Approved		Non-Billable	Attorney Service	Aguilera, Monica A	86.70	0.00	1.00	86.70
Bosco Inv 5993486 File and conform in Dept. S26. -Opposition -Declaration Court: San Bernardino County Superior Court - Central District									
08-24-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Monica A	94.00	0.00	1.00	94.00
CourtCall ID #11319881 for 8-23-21 MTC									
12-09-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Monica A	240.00	0.00	1.00	240.00
Check #1205 to San Bernardino Superior Court Clerk for the Clerk's transcript from the appeal									
01-04-2022	Approved		Non-Billable	E108 Postage	Aguilera, Monica A	0.53	0.00	1.00	0.53
Postage for the month of December 2021									
01-24-2022	Approved		Non-Billable	Attorney Service	Aguilera, Monica A	34.95	0.00	1.00	34.95
Bosco Inv 6591984 Go to the Appeals Division of the San Bernardino Superior Court located at: 8303 Haven Avenue, 1st Floor Rancho Cucamonga, CA 91730 Court: San Bernardino County Superior Court - Central District Completed on: 1/21/2022									
02-07-2022	Approved		Non-Billable	E125 Mediation fees	Aguilera, Monica A	7,450.00	0.00	1.00	7,450.00
Inv 29844 for 6-15-22 mediation w David Phillips									
02-24-2022	Approved		Non-Billable	E112 Court fees	Aguilera, Monica A	94.00	0.00	1.00	94.00
CourtCall ID #11458327 for 2-23-22 Case management conference									
08-01-2022	Approved		Non-Billable	E101 Copying	Charito, Tracie	0.06	0.00	8.00	0.48
8 copies @ .06 for Nlc of Change of Address									
08-01-2022	Approved		Non-Billable	E108 Postage	Charito, Tracie	0.57	0.00	1.00	0.57
08-31-2022	Approved		Non-Billable	E119 Experts	Charito, Tracie	1,987.50	0.00	1.00	1,987.50
Creal & Creal Inv #17818									
01-10-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	229.20	0.00	1.00	229.20
Bosco Inv #8197330 File and conform. -Motion -Declaration x3 -Proposed Order *advance fee* Court: San Bernardino County Superior Court - Central District Completed on: 1/9/2023									

All Expenses
Lauby, Mankin & Lauby LLP

Staff Member = All (Active Only)
Group By Staff Member Group
Client - Project = 14000-00432 Greendale v
Andersen (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Joseph Greendale</u> <u>14000-00432 Greendale v Andersen</u>									
02-20-2023	Approved		Non-Billable	Attorney Service	Chiarto, Tracie	72.00	0.00	1.00	72.00
Courtcall ID #11660578 for 2/17/23 MPA									
02-28-2023	Approved		Non-Billable	E112 Court fees Chiarto, Tracie	Chiarto, Tracie	2.50	0.00	1.00	2.50
San Bernardino Superior Court fees for copy of signed PA order									
03-14-2023	Approved		Non-Billable	Attorney Service	Chiarto, Tracie	30.69	0.00	1.00	30.69
TurboCourt Order #7775147 - file Slip and Order to Increase Admin Costs									
03-24-2023	Approved		Non-Billable	E112 Court fees Chiarto, Tracie	Chiarto, Tracie	3.00	0.00	1.00	3.00
San Bernardino Superior Court fees for copy of signed order on slip to increase admin costs									
03-24-2023	Approved		Non-Billable	Attorney Service	Chiarto, Tracie	30.69	0.00	1.00	30.69
TurboCourt Order #7812660 - file Slip and Order re FAC									
04-04-2023	Approved		Non-Billable	Attorney Service	Chiarto, Tracie	9.95	0.00	1.00	9.95
TurboCourt Order #7848700 - file First Amended Complaint									
06-16-2023	Approved		Non-Billable	Attorney Service	Chiarto, Tracie	300.00	0.00	1.00	300.00
Estimated costs to file Motion for Final Approval and supporting documents via Bosco									
07-11-2023	Approved		Non-Billable	Attorney Service	Chiarto, Tracie	144.00	0.00	1.00	144.00
Estimated costs for Courtcall for MFA and Accounting Hearings									

Project Total 13,068.74
Client Total 13,068.74
Grand Total 13,068.74

EXHIBIT “C”