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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CRISTIAN ALBERTO ZELAYA BERRIOS
and ESTEFANI RAMIREZ, on behalf of
themselves and all others similarly situated
and aggrieved,

Plaintiffs,

v.

LEBLEUCHATEAU, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO.: 20STCV48283

[Assigned to the Hon. Daniel J. Buckley, in
Dept 1]

PAGA SETTLEMENT AGREEMENT

Action Filed: December 18, 2020

Trial Date: None set

1 This PAGA Settlement Agreement (“Settlement,” “Agreement” or “Settlement
2 Agreement”) is made by and between Plaintiffs Cristian Alberto Zelaya Berrios and Estefani
3 Ramirez (collectively, “Plaintiffs”), individually and on behalf of the Aggrieved Employees; and
4 defendant Lebleuchateau, Inc. (“Defendant”). The Agreement refers to Plaintiffs and Defendant
5 collectively as “Parties,” or individually as “Party.”

6 **1. DEFINITIONS**

7 **1.1. “Action”** means Plaintiffs’ PAGA lawsuit alleging wage and hour violations
8 against Defendant captioned *Alberto Zelaya Berrios and Estefani Ramirez v. Lebleuchateau,*
9 *Inc.*, Case No. 20STCV48283, initiated on December 18, 2020, and pending in the Superior Court
10 of the State of California, County of Los Angeles.

11 **1.2. “Administrator”** means Phoenix Class Action Administration Solutions
12 (“Phoenix”), the neutral entity the Parties have agreed to appoint to administer the Settlement.

13 **1.3. “Administration Expenses Payment”** means the amount the Administrator will
14 be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
15 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection
16 with approval of this Settlement.

17 **1.4. “Aggrieved Employee”** means all current and former non-exempt, hourly-paid
18 California employees employed by or formerly employed by Defendant, at any time during the
19 PAGA Period.

20 **1.5. “Aggrieved Employee Data”** means Aggrieved Employee identifying
21 information in Defendant’s possession including the Aggrieved Employee’s name, last-known
22 mailing address, Social Security number, and number of PAGA Pay Periods.

23 **1.6. “Aggrieved Employee Address Search”** means the Administrator’s
24 investigation and search for current Aggrieved Employees’ mailing addresses using all
25 reasonably available sources, methods and means, including, but not limited to, the National

1 Change of Address database, skip traces and direct contact by the Administrator with Aggrieved
2 Employees.

3 **1.7. “Order Granting PAGA Settlement Approval”** means the final Court Order
4 Granting Approval of the PAGA Settlement.

5 **1.8. “Court”** means the Superior Court of California, County of Los Angeles.

6 **1.9. “Defendant”** means the named Defendant, Lebleuchateau, Inc.

7 **1.10. “Defense Counsel”** means Beth Kahn and Susan Holley of Musick, Peeler &
8 Garrett LLP.

9 **1.11. “Effective Date”** means the date on which the Final Award becomes final. For
10 purposes of this Section, the Final Award "becomes final" only after the Court grants the Motion
11 for PAGA Settlement Approval upon entry of Order and/or Judgment, and upon the latter of: (i)
12 if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from,
13 or other challenge to, the Order Granting PAGA Settlement Approval and/or Judgment (this time
14 period shall not be less than sixty (60) calendar days after the Court's Order/Judgment is entered);
15 (ii) the date of affirmance of an appeal of the Order Granting PAGA Settlement Approval and/or
16 Judgment becomes final under the California Rules of Court; or (iii) the date of final dismissal
17 of any appeal from the Order Granting PAGA Settlement Approval and/or Judgment or the final
18 dismissal of any proceeding on review of any court of appeal decision.

19 **1.12. “Gross Settlement Amount”** means Two Hundred Fifty Thousand Dollars and
20 Zero Cents (\$250,000.00), which is the total amount Defendant agree to pay under the Settlement
21 except as provided in Paragraph 8.1 below. The Gross Settlement Amount will be used to pay
22 Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA
23 Counsel Litigation Expenses Payment, the Administrator’s Expenses Payment, and the PAGA
24 Representatives Service Payments.

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1 **1.13. “Individual PAGA Payment”** means the Aggrieved Employee’s pro rata share
2 of 30% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved
3 Employee worked during the PAGA Period.

4 **1.14. “Judgment”** means the judgment entered by the Court based upon the Final
5 Approval.

6 **1.15. “LWDA”** means the California Labor and Workforce Development Agency, the
7 agency entitled, under Labor Code section 2699, subd. (i).

8 **1.16. “LWDA PAGA Payment”** means the 75% of the PAGA Penalties paid to the
9 LWDA under Labor Code section 2699, subd. (i).

10 **1.17. “Net Settlement Amount”** means the Gross Settlement Amount, less the
11 following payments in the amounts approved by the Court: the LWDA PAGA Payment, PAGA
12 Representatives Service Payments, PAGA Counsel Fees Payment, PAGA Counsel Litigation
13 Expenses Payment, and the Administration Expenses Payment. The remainder is the Net
14 Settlement Amount to be paid to Aggrieved Employees as Individual PAGA Payments.

15 **1.18. “PAGA”** means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

16 **1.19. “PAGA Counsel”** means, David D. Bibiyan and Vedang J. Patel of Bibiyan Law
17 Group, P.C. The term “PAGA Counsel” shall be used synonymously with the term “Plaintiffs’
18 Counsel.”

19 **1.20. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses**
20 **Payment”** mean the amounts allocated to PAGA Counsel for reimbursement of reasonable
21 attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

22 **1.21. “PAGA Pay Period” or “Pay Period”** means any Pay Period during which an
23 Aggrieved Employee worked for Defendant during the PAGA Period, based on hire dates,
24 termination dates (if applicable) and re-hire dates (if applicable).

25 **1.22. “PAGA Period”** means the period from July 27, 2019, through August 29, 2024.

1 **1.23. “PAGA Notice”** means Plaintiff’s letter to Defendant and the LWDA providing
2 notice pursuant to Labor Code section 2699.3, subd. (a).

3 **1.24. “PAGA Penalties”** means the total amount of PAGA civil penalties to be paid
4 from the Net Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to
5 LWDA in settlement of PAGA claims.

6 **1.25. “PAGA Representatives Service Payments”** means the payments to Plaintiffs
7 for providing services in support of the Action and providing a broader release.

8 **1.26. “Plaintiffs”** mean Cristian Alberto Zelaya Berrios and Estefani Ramirez, the
9 named Plaintiffs in the Action.

10 **1.27. “Approval Order”** means the proposed Court Order Granting Approval of
11 PAGA Settlement.

12 **1.28. “Released PAGA Claims”** means the claims being released by the Plaintiffs and
13 PAGA Counsel and as described in Paragraph (5) below.

14 **1.29. “Released Parties”** means the Defendants and each of their past, present, and
15 future parents, subsidiaries, affiliated companies, agents, managing agents, employees, servants,
16 officers, directors, owners (whether direct or indirect), franchisors, general partners, limited
17 partners, trustees, representatives, shareholders, stockholders, members, mortgagees or ground
18 lessors, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or
19 partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers,
20 joint employers, potential and/or alleged joint employers, temporary staffing agencies,
21 professional employer organizations, dual employers, potential and/or alleged dual employers,
22 co-employers, potential and/or alleged co-employers, common law employers, contractors,
23 affiliates, service providers, alter-egos, potential and/or alleged alter-egos, vendors, affiliated
24 organizations, any person and/ or entity with potential or alleged to have joint liability, dbas, and
25 all of their respective past, present and future employees, directors, officers, members, owners,

agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all persons and/or entities acting under, by, through or in concert with any of them.

1.30. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS

2.1.1. On July 27, 2020, Plaintiffs filed with the LWDA and served on Defendant a notice under Labor Code section 2699.3 stating Plaintiffs intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for alleged Labor Code violations (“PAGA Notice”).

2.2. On December 18, 2020, Plaintiffs commenced this Action by filing a Complaint alleging causes of action against Defendant for failure to pay overtime wages, failure to pay minimum wages, failure to provide meal periods, failure to provide rest periods, waiting time penalties, wage statement violations, failure to indemnify, unfair competition, and penalties per Labor Code sections 210, 226.3, 558, 1197.1 and 2699. The Complaint is the operative complaint in the Action (the “Operative Complaint.”). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged.

2.3. On January 5, 2022, Plaintiff filed a First Amended Complaint in the Action, raising an additional cause of action against Defendant under PAGA. The Amended Complaint is the operative complaint in the Action (the “Operative Complaint”).

2.4. After Plaintiffs’ filing of the complaint, Defendant filed a motion to compel individual arbitration of all claims and stay the PAGA action pending arbitration. On September 30, 2022, the Court granted the motion to compel arbitration of all claims except the PAGA

claims, struck the class claims in their entirety, and stayed the representative PAGA action pending arbitration of the individual PAGA claims.

2.5. On August 29, 2024, the parties participated in an all-day mediation on a PAGA-only basis presided over by Eve Wagner, which lead to the present settlement of the Action on a PAGA basis only.

2.6. Prior to mediation, Plaintiff obtained, through informal discovery, a 30% sampling of allegedly aggrieved employees' wage records, the number of Aggrieved Employees, and applicable pay periods.

2.7. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below, Defendant promises to pay \$250,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Order Granting PAGA Settlement Approval:

3.2.1 To Plaintiffs: PAGA Representatives Service Payments of not more than \$7,500 to each plaintiff, for a total of \$15,000 to Plaintiffs (in addition to any Individual PAGA Payments they are entitled to receive as Aggrieved Employees). Defendant will not oppose Plaintiffs' request for PAGA

Representatives Service Payments that do not exceed this amount. If the Court approves a PAGA Representative Service Payment less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the PAGA Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for any taxes owed on the PAGA Representative Service Payments.

3.2.2 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 35% which is currently estimated to be \$87,500.00 and PAGA Counsel Litigation Expenses Payment of not more than \$40,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts unless, in the event of a material breach of this Agreement by Defendant, Plaintiffs is required to move the Court for enforcement of this Agreement. Plaintiffs and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees

1 Payment and the PAGA Counsel Litigation Expenses Payment and holds
2 Defendant harmless, and indemnifies Defendant, from any dispute or
3 controversy regarding any division or sharing of any of these Payments.

4 **3.2.3 To the Administrator:** An Administrator Expenses Payment not to
5 exceed \$5,750.00 except for a showing of good cause and as approved by
6 the Court. To the extent the Administration Expenses are less or the Court
7 approves payment less than \$5,750.00, the Administrator will retain the
8 remainder in the Net Settlement Amount.

9 **3.2.4 To the LWDA and Aggrieved Employees:** The Net Settlement Amount,
10 the PAGA Penalties, will be distributed 75% to the LWDA PAGA
11 Payment and 25% to the Individual PAGA Payments.

12 **3.2.4.1** The Administrator will calculate each Individual PAGA Payment
13 by (a) dividing the amount of the Aggrieved Employees' 25% share
14 of PAGA Penalties by the total number of PAGA Period Pay
15 Periods worked by all Aggrieved Employees during the PAGA
16 Period and (b) multiplying the result by each Aggrieved
17 Employee's PAGA Period Pay Periods. Aggrieved Employees
18 assume full responsibility and liability for any taxes owed on their
19 Individual PAGA Payment.

20 **3.2.4.2** If the Court approves PAGA Penalties of less than the amount
21 requested, the Administrator will allocate the remainder to the Net
22 Settlement Amount. The Administrator will report the Individual
23 PAGA Payments on IRS 1099 Forms.

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1 **4. SETTLEMENT FUNDING PAYMENTS**

2 **4.1. Aggrieved Employee Pay Periods.** Based on a review of its records to date,
3 Defendant estimates there are 339 Aggrieved Employees who worked a total of 9,750 PAGA Pay
4 Periods.

5 **4.2. Aggrieved Employee Data.** Within 14 calendar days of the Effective Date,
6 Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a
7 Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator
8 must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data
9 only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved
10 Employee Data to Administrator employees who need access to the Aggrieved Employee Data
11 to effect and perform under this Agreement. Plaintiff and PAGA Counsel are not to be provided
12 the Aggrieved Employee Data. Defendant has a continuing duty to immediately notify PAGA
13 Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying
14 information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably
15 feasible. Without any extension of the deadline by which Defendant must send the Aggrieved
16 Employee Data to the Administrator, the Parties and their counsel will expeditiously use best
17 efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted
18 Aggrieved Employee Data.

19 **4.3. Funding of Gross Settlement Amount.** Defendant shall fully fund the Gross
20 Settlement Amount by transmitting the funds to the Administrator no later than 14 days after the
21 Effective Date.

22 **4.4. Payments from the Gross Settlement Amount.** Within seven (7) days after
23 Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all
24 Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment,
25 the PAGA Counsel Litigation Expenses Payment, the PAGA Counsel Fees Payment, and the

PAGA Representatives Service Payments. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The distribution of Individual PAGA Payments shall be accompanied by the Notice of PAGA Settlement.

4.4.3. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 3 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.4. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

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1 **4.4.5.** The payment of Individual PAGA Payments shall not obligate Defendant to
2 confer any additional benefits or make any additional payments to the Aggrieved Employees
3 (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

4 **5. RELEASES OF CLAIMS**

5 Effective on the date when Defendant fully funds the entire Gross Settlement Amount,
6 Plaintiffs, Aggrieved Employees, and PAGA Counsel will release claims against all Released
7 Parties as follows:

8 **5.1. Plaintiffs' Release.** Upon payment of the Gross Settlement Amount (as the same
9 may be escalated pursuant to this Agreement), Plaintiffs, and their heirs, administrators,
10 successors, and assigns, generally release and discharge Released Parties from all claims,
11 transactions, or occurrences that occurred during the PAGA Period, including, but not limited to,
12 all claims that were, or reasonably could have been, alleged, based on the facts contained in the
13 Operative Complaint and the PAGA Notice. Plaintiffs acknowledge that Plaintiffs may discover
14 facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe
15 to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all
16 respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.
17 Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement or to any
18 claims for individual wage and hour claims, vested benefits, unemployment benefits, disability
19 benefits, social security benefits, or workers' compensation benefits.

20 **5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542.**

21 For purposes of Plaintiffs' Release, Plaintiffs expressly waives and
22 relinquishes the provisions, rights and benefits, if any, of section 1542 of
23 the California Civil Code, which reads:

24 A general release does not extend to claims that the creditor or releasing
25 party does not know or suspect to exist in his or her favor at the time of

1 executing the release, and that if known by him or her would have
2 materially affected his or her settlement with the debtor or Released Party.

3 **5.2. Release by Aggrieved Employees.** Plaintiffs, Aggrieved Employees, and, to the
4 extent permitted by law, the State of California, upon payment of the Gross Settlement Amount
5 (as the same may be escalated pursuant to this Agreement), will release claims against all
6 Released Parties as follows: State of California (to the extent permitted by law) and all Aggrieved
7 Employees, including Plaintiffs, are deemed to release the Released Parties from all claims for
8 PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA
9 Period facts stated in the Operative Complaint and/or the PAGA Notice, including, but not
10 limited to, failure to pay overtime, failure to provide compliant meal and rest periods, failure to
11 pay premiums for non-compliant meal and rest breaks, waiting time penalties, inaccurate wage
12 statements, failure to indemnify, failure to reimburse expenses, failure to respond to request for
13 records, failure to provide Labor Code 2810.5 form, unfair business practices and penalties
14 pursuant to the Private Attorneys General Act of 2004, Labor Code sections 90.5, 201, 201.3,
15 202, 204, 204.1, 204.2, 210, 218.5, 225.5, 226, 226.3, 226.7, 510, 512, 558, 1194, 1198, 2698,
16 2699 et seq., 2699.3, 2699.5, 2802, Business & Professions Code section 17200 et seq., Code of
17 Civil Procedures section 1021.5, the applicable Industrial Welfare Commission Orders and
18 California Code of Regulations, Title 8, section 11050. Plaintiffs and the Aggrieved Employees
19 shall be deemed to have acknowledged and agreed that their claims in this Action are disputed,
20 and that the payments to them set forth in this Agreement constitute payment of all sums allegedly
21 due to them.

22 **5.3. Release by PAGA Counsel:** PAGA Counsel release on behalf of their present
23 and former attorneys, employees, agents, successors and assigns the Released Parties from all
24 claims for PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment incurred in
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1 connection with or in any way related to, the Action, the Operative Complaint and the PAGA
2 Period facts stated in the Operative Complaint and the PAGA Notice.

3 **6. MOTION OR APPLICATION FOR APPROVAL OF**
4 **SETTLEMENT**

5 The Parties agree to jointly prepare and file an application or motion for approval of this
6 Settlement.

7 **6.1. Plaintiffs' Responsibilities.** Plaintiffs will prepare and endeavor to deliver to
8 Defense Counsel a stipulation or motion for approval of PAGA Settlement, including all
9 documents necessary for obtaining approval of this Settlement under Labor Code Section 2699,
10 subd. (f)(2) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a
11 signed declaration from the Administrator attaching its "not to exceed" bid for administering the
12 Settlement and attesting to its willingness to serve; competency; operative procedures for
13 protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data
14 breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential
15 conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any
16 financial relationship with Plaintiffs, PAGA Counsel or Defense Counsel; (iii) a signed
17 declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all
18 necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)),
19 Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code
20 section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential conflict of interest
21 with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiffs and PAGA
22 Counsel shall aver that they are not aware of any other pending matter or action asserting claims
23 that will be extinguished or adversely affected by the Settlement.

24 **6.2. Responsibilities of PAGA Counsel.** PAGA Counsel and Defense Counsel are
25 jointly responsible for expeditiously finalizing and filing the application or motion for approval

of this Settlement after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and conferring, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION

7.1. Selection of Administrator. The Parties have jointly selected Phoenix to serve as the Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

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1 **7.4. Administrator Duties.** The Administrator has a duty to perform or observe all
2 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

3 **8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR**
4 **CLAUSE**

5 Based on its records, Defendant estimate that, as of the date of this Settlement Agreement
6 there are 339 Aggrieved Employees who worked 9,750 Pay Periods during the PAGA Period.

7 **8.1 Increase in the Gross Settlement Amount.** Defendant estimates that there are
8 approximately 9,750 Pay Periods (defined as any pay period in which an Aggrieved Employee
9 received a wage statement) during the PAGA Period through August 29, 2024. In the event the
10 number of Pay Periods during the PAGA Period is incorrect by more than 10%, or 975 Pay
11 Periods, then the Gross Settlement Amount shall be increased proportionally by the Pay Periods
12 in excess of 10,725 multiplied by the Pay Period Value. The Pay Period Value shall be calculated
13 by dividing the Gross Settlement Amount by 9,750. The Parties agree that the Pay Period Value
14 amounts to \$25.64 per Pay Period. (\$250,000 / 9,750 Pay Periods.) Thus, for example, should
15 there be 11,000 Pay Periods in the PAGA Period, then the Gross Settlement Amount shall be
16 increased by \$7,051. ((11,000 Pay Periods - 10,725 Pay Periods) x \$25.64 / Pay Period). The first
17 975 pay periods in the escalator or buffer are not to be charged against Defendant.

18 **9. NULLIFICATION OF AGREEMENT**

19 In the event: (i) the Court does not enter the Approval Order and approve the Released
20 PAGA Claims specified herein; or (ii) the Settlement does not become final for any other reason,
21 this Settlement Agreement shall be null and void. A reduction of the attorneys' fees and expenses
22 and the Plaintiff's Representative Service Award shall not be grounds for nullification of this
23 Settlement. If the Settlement is nullified, any order or judgment entered by the Court in
24 furtherance of this Agreement shall be treated as void from the beginning, and the provisions
25 contained herein shall be of no force or effect, and shall not be treated as an admission by the

Parties or their counsel. In such a case, the Parties and any funds to be awarded under this Agreement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed, except that any fees already incurred by the settlement administrator shall be paid equally by both Parties.

10. CONTINUING JURISDICTION OF THE COURT

10.1 The Parties agree that, after entry of Judgment, the Court shall retain continuing jurisdiction over the Parties, Action, and the Settlement, under CCP Section 664.6, solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.2 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.3 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Aggrieved Employees), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns

1 and try to obtain approval of the Settlement and entry of Judgment, sharing, on a 50-50 basis,
2 any additional Administration Expenses reasonably incurred after remittitur. An appellate
3 decision to vacate, reverse, or modify the Court's award of any payments to PAGA Counsel shall
4 not constitute a material modification of the Judgment within the meaning of this paragraph, as
5 long as the Gross PAGA Settlement Amount remains unchanged.

6 **10. ADDITIONAL PROVISIONS**

7 **10.1. No Admission of Liability or Representative Manageability for Other**
8 **Purposes.** This Agreement represents a compromise and settlement of highly disputed claims.
9 Nothing in this Agreement is intended or should be construed as an admission by Defendant that
10 any of the allegations in the Operative Complaint have merit or that Defendant has any liability
11 for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that
12 Defendant's defenses in the Action have merit. The Parties agree that representative treatment is
13 for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement,
14 Defendant reserve all available defenses to the claims in the Action, and Plaintiffs reserves the
15 right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to
16 settle the Action will have no bearing on, and will not be admissible in connection with, any
17 litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement or
18 to support a defense of res judicata, collateral estoppel, release, or other theory of claim or issue
19 preclusion or similar defense as to the claims being released in this PAGA Settlement
20 Agreement).

21 **10.2. Integrated Agreement.** Upon execution by all Parties and their counsel, this
22 Agreement together with its attached Exhibit A shall constitute the entire agreement between the
23 Parties relating to the Settlement, superseding any and all oral representations, warranties,
24 covenants, or inducements made to or by any Party.

25 ///

1 **10.3. Attorney Authorization.** PAGA Counsel and Defense Counsel separately
2 warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take
3 all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
4 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
5 terms of this Agreement including any amendments to this Agreement.

6 **10.4. Cooperation.** The Parties and their counsel will cooperate with each other and
7 use their best efforts, in good faith, to implement the Settlement by, among other things,
8 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
9 points and authorities as requested by the Court. In the event the Parties are unable to agree upon
10 the form or content of any document necessary to implement the Settlement, or on any
11 modification of the Agreement that may become necessary to implement the Settlement, the
12 Parties will seek the assistance of a mediator and/or the Court for resolution.

13 **10.5. No Prior Assignments.** The Parties separately represent and warrant that they
14 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
15 or encumber to any person or entity and portion of any liability, claim, demand, action, cause of
16 action, or right released and discharged by the Party in this Settlement.

17 **10.6. No Tax Advice.** Neither Plaintiffs, PAGA Counsel, Defendant nor Defense
18 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
19 Settlement be relied upon as such within the meaning of United States Treasury Department
20 Circular 230 (31 CFR Part 10, as amended) or otherwise.

21 **10.7. Modification of Agreement.** This Agreement, and all parts of it, may be
22 amended, modified, changed, or waived only by an express written instrument signed or agreed
23 to by all Parties or their representatives, and approved by the Court. Plaintiff and Defendant
24 expressly agree that should the Parties agree to amend, modify, change, or waive this Agreement,
25 or any part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any

1 amendments of this Agreement, amended Agreements, or amendments to the Agreement, on
2 behalf of the Parties once fully executed, which includes, but is not limited to, authorization of
3 the use of signatures previously provided by the Parties.

4 **10.8. Agreement Binding on Successors.** This Agreement will be binding upon, and
5 inure to the benefit of, the successors of each of the Parties.

6 **10.9. Applicable Law.** All terms and conditions of this Agreement and its Exhibit A
7 will be governed by and interpreted according to the internal laws of the state of California,
8 without regard to conflict of law principles.

9 **10.10. Cooperation in Drafting.** The Parties have cooperated in the drafting and
10 preparation of this Agreement. This Agreement will not be construed against any Party on the
11 basis that the Party was the drafter or participated in the drafting.

12 **10.11. Confidentiality.** Plaintiffs and their counsel agree that they will not issue any
13 press releases, initiate any contact with the press, respond to any press inquiry, post on any
14 internet website, or have any communication with the press about the Lawsuit, and/or the fact,
15 amount or terms of the settlement. Plaintiffs and their counsel agree not to publicize the
16 settlement. Plaintiffs and their counsel agree not to contact Aggrieved Employees in connection
17 with this matter while the Parties are attempting to reach approval of the Settlement except in
18 connection with efforts to assist in approval or otherwise effectuate the terms of the settlement.
19 Plaintiffs and their counsel agree not to otherwise publicize the settlement. To the extent
20 permitted by law, all agreements made, and orders entered during Action and in this Agreement
21 relating to the confidentiality of information shall survive the execution of this Agreement.

22 **10.12. Use of Aggrieved Employee Data.** Information provided to PAGA Counsel
23 pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to
24 PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or
25 in connection with the Settlement, may be used only with respect to this Settlement, and no other

1 purpose, and may not be used in any way that violates any existing contractual agreement, statute,
2 or rule of court. Plaintiff shall, upon request from Defendant, destroy all paper and electronic
3 Aggrieved Employee Data received from Defendants ninety (90) days after the Administrator
4 discharges its obligation to pay out all Settlement funds.

5 **10.13. Headings.** The descriptive heading of any section or paragraph of this Agreement
6 is inserted for convenience of reference only and does not constitute a part of this Agreement.

7 **10.14. Calendar Days.** Unless otherwise noted, all reference to “days” in this Agreement
8 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
9 weekend or federal legal holiday, such date or deadline shall be on the first business day
10 thereafter.

11 **10.15. Notice.** All notices, demands or other communications between the Parties in
12 connection with this Agreement will be in writing and deemed to have been duly given as of the
13 third business day after mailing by United States mail, or the day sent by email or messenger,
14 addressed as follows:

15 To Plaintiffs:

16 Bibiyan Law Group, P.C.

17 1460 Westwood Boulevard

18 Los Angeles, California 90024

19 To Defendant:

20 Musick, Peeler & Garrett LLP

21 333 South Hope Street, Suite 2900

22 Los Angeles, California 90071-3048

23
24 **10.16. Execution in Counterparts.** This Agreement may be executed in one or more
25 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this

1 Agreement shall be accepted as an original. All executed counterparts and each of them will be
2 deemed to be one and the same instrument if counsel for the Parties will exchange between
3 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
4 prove the existence and contents of this Agreement.

5 **10.17. Stay of Litigation.** The Parties agree that upon the execution of this Agreement
6 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
7 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the
8 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
9 process.

10 **10.18. Severability.** In the event that one or more of the provisions contained in this
11 Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such
12 invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's
13 Counsel and PAGA Counsel, on behalf of the Parties and the Aggrieved Employees, mutually
14 elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been
15 included in this Agreement.

16 **IT IS SO AGREED:**

17 Dated: Apr 24, 2025

18 

Cristian Alberto Zelaya Berrios (Apr 24, 2025 12:02 PDT)

19 Plaintiff, Cristian Alberto Zelaya Berrios

Dated:

4/15/25



For Defendant, Lebleuchateau, Inc.

20 Dated: Apr 24, 2025

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Estefani Verence Ramirez (Apr 24, 2025 12:03 PDT)

22 Plaintiff, Estefani Ramirez

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Vedang J. Patel

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiffs

Beth A. Kahn
Susan E. Holley
Counsel for Defendant