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19 **SUPERIOR COURT OF CALIFORNIA**

20 **FOR THE COUNTY OF SAN DIEGO**

21 EDMUNDO HOLGUIN, on behalf of the
State of California, as a private attorney
22 general,

Plaintiff,

23 v.

24 HAWTHORNE MACHINERY CO., a
25 California Corporation; and DOES 1 through
50, Inclusive,

26 Defendants.
27
28

Case No. 37-2021-00003107-CU-OE-CTL

**JOINT STIPULATION OF PAGA
SETTLEMENT AND RELEASE**

Complaint Filed: January 22, 2021

1 This Joint Stipulation of PAGA Settlement and Release (hereinafter "Stipulation of
2 Settlement") is made and entered into by and between EDMUNDO HOLGUIN ("Plaintiff" or
3 "PAGA Representative"), individually and on behalf of himself, the State of California and all other
4 allegedly similarly aggrieved employees ("PAGA Members"), on the one hand, and Hawthorne
5 Machinery Co. ("Defendant"), on the other.

6 This Stipulation of Settlement shall be binding on Plaintiff, the State of California, and those
7 persons Plaintiff represents as PAGA Members as provided herein, and on Defendant and its present
8 and former parents, affiliated or related companies, shareholders, officers, directors, employees,
9 agents, attorneys, insurers, successors and assigns, and any individual or entity which could be
10 jointly liable with Defendant, and its respective counsel, subject to the terms and conditions hereof
11 and the Court's approval.

12 **THE PARTIES STIPULATE AND AGREE** as follows:

13 1. Plaintiff and Defendant are collectively referred to herein as "the Parties."

14 2. On or about August 21, 2020, Plaintiff filed a Private Attorneys General Act
15 ("PAGA") letter with the Labor and Workforce Development Agency ("LWDA") asserting various
16 California Labor Code violations against Defendant (the "LWDA Notice Letter").

17 3. On January 22, 2021, Plaintiff filed his PAGA Complaint for Damages
18 ("Complaint") in the above captioned action against Defendant in San Diego County Superior Court
19 (the "Court"), case no. 37-2021-00003107-CU-OE-CTL (the "Lawsuit" or "Action").

20 4. Plaintiff's Complaint alleges a cause of action for Civil Penalties Pursuant to Private
21 Attorney General Act, Labor Code section 2689, *et seq.* Plaintiff alleges various Labor Code
22 violations, including, but not limited to, (1) failure to pay minimum wage, (2) failure to pay
23 overtime, (3) failure to provide meal periods or pay meal period premiums (including failure to pay
24 such premiums at the regular rate of pay), (4) failure to permit rest periods or pay rest period
25 premiums (including failure to pay such premiums at the regular rate of pay), (5) waiting time
26 penalties, (6) itemized wage statement violations, and (7) failure to reimburse necessary business
27 expenses, as the basis for his claims for civil penalties under PAGA. Plaintiff's Complaint seeks to
28 recover damages, including, but not limited to, PAGA civil penalties, interest including pre- and

1 post-judgment, injunctive relief, and attorneys' fees and costs.

2 5. Defendant denies all material claims and allegations and asserts numerous
3 affirmative defenses.

4 6. Through arms-length, serious negotiations and two separate mediation sessions with
5 qualified employment law mediators, the Parties have reached a settlement of Plaintiff's claims
6 brought in the Lawsuit ("Settlement"). The Parties originally conducted a mediation session on
7 March 17, 2022 with experienced wage and hour mediator Jeffrey Krivis, but were unable to reach
8 a settlement. Following mediation, the Parties engaged in further litigation and written discovery,
9 as well as the deposition of Plaintiff taken by Defendant. The Parties engaged in a second all-day
10 mediation session on September 26, 2023 with retired federal judge Hon. William McCurine, Jr.,
11 after the exchange of information to allow the parties to evaluate the merits of Plaintiff's claims and
12 the merits of Defendant's defenses to those claims. The negotiation between the parties was
13 adversarial and contentious, while remaining professional. These negotiations allowed the Parties
14 to reach a final resolution as to Plaintiff's claims under the PAGA, which will be submitted to the
15 LWDA and to the above captioned Court for approval, pursuant to Labor Code section 2699(1)(2).
16 The Parties now enter into this detailed, formalized Stipulation of Settlement with respect to the
17 Plaintiff's PAGA claims, subject to the Court's approval of the Settlement.

18 7. For purposes of this Settlement, the "PAGA Members" shall consist of all hourly,
19 nonexempt employees of Defendant who have worked in California any time during the PAGA
20 Period. The "PAGA Period" is from August 21, 2019 to the date the Court approves the Settlement.
21 Defendant represents that there were approximately 383 employees who worked 20,003 pay periods
22 during the PAGA Period.

23 8. Defendant specifically and generally denies any liability or wrongdoing of any kind
24 whatsoever associated with the claims and allegations alleged in Plaintiff's Complaint and LWDA
25 Notice Letter. Defendant makes no concessions or admissions of liability of any sort, and contends
26 that for any purpose other than settlement, the PAGA Action is not manageable or appropriate for
27 representative treatment. Defendant asserts a number of defenses to the claims, and has denied any
28 wrongdoing or liability arising out of any of the alleged facts or conduct in the PAGA Action.

1 Defendant adopted a comprehensive timekeeping, meal period and rest period compliance program
2 many years before the PAGA Action was filed which includes procedures to (1) encourage
3 employees to report timekeeping and meal or rest period problems and (2) require supervisors and
4 payroll employees to address and correct such problems. Defendant developed its own specialized
5 timekeeping software, conducted comprehensive trainings and re-trainings for supervisors and
6 hourly employees, implemented detailed wage and hour policies, and proactively encouraged its
7 employees to comply with Defendant's wage and hour policies and procedures. These measures
8 uniquely demonstrate Defendant's ongoing good faith commitment to fully complying with federal
9 and state wage and hour laws including ensuring hourly employees were paid for all wages due
10 including regular, overtime, premium and doubletime wages, and were provided opportunities to
11 take fully compliant meal and rest periods and reimbursed for reasonable and necessary business
12 expenses. . Neither this Agreement, nor any document referred to or contemplated herein, nor any
13 action taken to carry out this Agreement, is or may be construed as, or may be used as an admission,
14 concession, or indication by or against Defendant or any of the Released Parties (defined below) of
15 any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as any
16 admission or determination by any court as to the merits of the claims asserted in the PAGA action.
17 Defendant recognizes that the defense of this litigation will be time-consuming and require a
18 significant investment of resources. Defendant, therefore, has made a business decision to settle in
19 the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.

20 9. It is the desire of the Parties to fully, finally and forever settle, compromise and
21 discharge all disputes and claims that were alleged in Plaintiff's Complaint and LWDA Notice
22 Letter in this case and that could have been alleged. To achieve a full and complete release of
23 claims, the Parties acknowledge that this Stipulation of Settlement is intended to include in its effect
24 all claims alleged, and that could have been alleged, in the LWDA Notice Letter and the Action,
25 and all Released Claims against all Released Parties (as defined herein) as of the date of the Court's
26 approval of this Settlement.

27 10. This release includes Defendant, and any of its former and present parents,
28 subsidiaries, affiliates, and their former and present officers, directors, owners, employees, partners,

1 and agents, and any other predecessors, successors, assigns, or legal representatives (“Released
2 Parties”), from any and all claims, causes of action, damages, expenses, benefits, interest, penalties,
3 attorneys’ fees, costs, and any other form of relief or remedy in law, equity, or whatever kind or
4 nature that were asserted or could have been asserted based on the facts alleged and with respect to
5 the claims asserted in Plaintiff’s LWDA Notice and the Lawsuit for the entire PAGA Period.

6 11. “PAGA Counsel” means Blumenthal Nordrehaug Bhowmik De Blouw LLP and
7 Castle Law: California Employment Counsel PC, the attorneys representing the Plaintiff in the
8 Action. PAGA Counsel has conducted a thorough investigation into the facts of this representative
9 case, including an extensive review of relevant documents and data, and has diligently investigated
10 Plaintiff’s and the PAGA Members’ claims against Defendant. Based on their own independent
11 investigation and evaluation, PAGA Counsel are of the opinion that the Settlement with Defendant
12 for the consideration and on the terms set forth in this Stipulation of Settlement is fair, reasonable
13 and adequate and is in the best interest of Plaintiff and the PAGA Members in light of all known
14 facts and circumstances, including the risk of significant delay, the numerous defenses asserted by
15 Defendant, and various potential appellate issues.

16 12. The Parties agree to cooperate and take all steps necessary and appropriate to
17 consummate this Settlement and to effectuate a judgment. In the event that: (i) the Court does not
18 approve the Settlement as provided herein; or (ii) the Effective Date does not occur for any other
19 reason apart from the Court’s refusal to approve, then this Settlement Agreement—and any
20 documents generated to bring it into effect—will be null and void, and the Parties will be returned
21 to their respective positions.

22 13. This Settlement provides for mailing of an explanatory notice (as set forth in **Exhibit**
23 **A** below) (the “Settlement Notice”) and payment of Settlement Awards (as defined herein) to all
24 PAGA Members according to a specified formula as provided herein. The gross total payment
25 under the Settlement, including all attorneys’ fees and costs, settlement administration costs,
26 interest, PAGA penalties and any other payments provided by this Settlement is \$287,963.00. It is
27 understood and agreed that Defendant’s gross total liability under this Settlement shall not exceed
28 \$287,963.00. It is further understood and agreed that Defendant shall have no obligation to pay any

1 person, entity or organization more than its gross total liability under this Settlement as set forth
2 above, which includes the total amount of: (1) the Settlement Awards to the PAGA Group; (2) the
3 attorneys' fees and costs approved by the Court; (3) the actual fees and expenses of the Settlement
4 Administrator; (4) the service payment to Plaintiff, and (5) payment to the State of California
5 pursuant to PAGA.

6 TERMS OF SETTLEMENT

7 14. NOW THEREFORE, in consideration of the mutual covenants, promises and
8 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

9 a. It is agreed by and among Plaintiff and Defendant that any PAGA claims,
10 damages or causes of action arising out of the disputes which are the subject of the LWDA Notice
11 Letter and this Action or that could have been included in the LWDA Notice Letter and this Action,
12 be settled and compromised as between the Plaintiff, the PAGA Members (including Plaintiff) and
13 Defendant, subject to the terms and conditions set forth in this Stipulation of Settlement and
14 approval by the Court.

15 b. Effective Date: The Settlement embodied in this Stipulation of Settlement
16 shall become effective when all of the following events have occurred: (i) this Stipulation of
17 Settlement has been executed by all Parties and by counsel for the PAGA Members and Defendant;
18 (ii) the Court has approved this PAGA Settlement, and (iii) the Judgement is final. The term
19 "Judgment" means the judgment entered by the Court based upon the final approval by the Court.

20 c. Gross Settlement Amount, and Net Settlement Amount: To implement the
21 terms of this Settlement, Defendants agree to pay a gross settlement amount of \$287,963.00 ("Gross
22 Settlement Amount").

23 i. At no time shall Defendant have the obligation
24 to segregate the funds comprising the Gross Settlement Amount. The Gross
25 Settlement Amount will be used to pay all Settlement Awards for the PAGA
26 Members, all attorneys' fees and costs of PAGA Counsel, all fees and
27 expenses of the Settlement Administrator, the payment to the State of
28 California pursuant to the PAGA, and other payments provided by this

1 Settlement.

2 ii. The Net Settlement Amount shall be calculated
3 by deducting all attorneys' fees and costs, the actual fees and expenses of the
4 Settlement Administrator, and the PAGA Representative Service Payment
5 (defined herein) from the Gross Settlement Amount ("Net Settlement
6 Amount"). The Settlement Awards to PAGA Members will be calculated by
7 the Settlement Administrator based on Defendant's records and paid out of
8 the Net Settlement Amount as detailed in Paragraph 14(d) below. The Gross
9 Settlement Amount shall be paid by Defendant to the Settlement
10 Administrator within forty-five (45) days after the Settlement becomes final
11 and effective under Paragraph 14(b).

12 d. California Private Attorneys' General Act Allocation: Seventy-five percent
13 (75%) of the Net Settlement Amount will be paid to the State of California's LWDA pursuant to the
14 PAGA (the "LWDA PAGA Payment") and the remaining 25% will be paid as Settlement Awards
15 to the PAGA Members (the "Employee PAGA Payment"). The Settlement Awards will be
16 calculated by the Settlement Administrator based on Defendant's records and paid out of the Net
17 Settlement Amount as detailed in Paragraph 14(e) below. The Net Settlement Amount will be
18 distributed as provided herein within fifteen (15) days of Defendant funding of the Settlement.

19 e. Settlement Awards: The term "Settlement Awards" means the PAGA
20 Members' *pro rata* shares of the Employee PAGA Payment calculated according to the number of
21 pay periods each PAGA Member worked during the PAGA Period. The Settlement Administrator
22 shall first determine for each PAGA Member the pay periods the PAGA Member actively worked
23 for Defendant during the PAGA Period. The Settlement Administrator shall divide the amount of
24 the Employee PAGA Payment by the sum of all PAGA Members' pay periods worked to calculate
25 an "Estimated Amount Per Pay Period." For each PAGA Member, the Settlement Administrator
26 shall then multiply the Estimated Amount Per Pay Period by the PAGA Member's pay periods
27 worked in the PAGA Period to determine each individual Settlement Award. Defendant represents
28 that the approximate number of pay periods during the PAGA Period was 20,003. The Settlement

1 Award process is discussed further below.

2 f. Allocation and Taxability of Settlement Awards: The individual Settlement
3 Awards payable to PAGA Members shall be allocated entirely to alleged unpaid penalties and
4 unpaid interest, for which IRS Forms 1099-MISC will issue to the PAGA Members. PAGA
5 Members assume full responsibility and liability for any taxes owed or attributable to the Settlement
6 Awards paid to the PAGA Members under this Settlement.

7 g. Settlement Awards Do Not Trigger Additional Benefits: All Settlement
8 Awards to PAGA Members shall be deemed to be income to such PAGA Members solely in the
9 year in which such awards actually are received by the PAGA Members. It is expressly understood
10 and agreed that the receipt of such Settlement Awards will not entitle any PAGA Member to
11 additional compensation or benefits under any company bonus, contest or other compensation or
12 benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle
13 any PAGA Member to any increased retirement, 401(k) benefits or matching benefits, or deferred
14 compensation benefits. No deductions or contributions for 401(k) shall be made from the Settlement
15 Awards. It is the intent of this Settlement that the Settlement Awards provided for in this Agreement
16 are the sole payments to be made by Defendant to PAGA Members in connection with this
17 Settlement, and that the PAGA Members are not entitled to any new or additional compensation or
18 benefits as a result of having received the Settlement Awards (notwithstanding any contrary
19 language or agreement in any benefit or compensation plan document that might have been in effect
20 during the period covered by this Settlement).

21 h. Attorneys' Fees and Attorneys' Costs: Subject to Court approval, attorneys'
22 fees and costs shall be paid to Plaintiff's Counsel from the Gross Settlement Amount, as set forth in
23 Paragraph 16 below. The Court-approved attorneys' fees and costs will be paid out of the Gross
24 Settlement Amount to PAGA Counsel within fifteen (15) days after the Settlement is funded by
25 Defendant.

26 i. Settlement Administrator: The Parties have jointly selected ILYM to serve
27 as the "Settlement Administrator" and verified that, as a condition of appointment, ILYM agrees to
28 be bound by this Stipulation of Settlement and to perform, as a fiduciary, all duties specified in this

1 Stipulation of Settlement in exchange for payment of actual expenses and fees incurred in the
2 administration of this Settlement ("Administration Expenses"). The Parties and their counsel
3 represent that they have no interest or relationship, financial or otherwise, with the Settlement
4 Administrator other than a professional relationship arising out of prior experiences administering
5 settlements. However, the Parties shall have the right to select or substitute a different Settlement
6 Administrator by mutual agreement at any time. The fees of the Settlement Administrator for work
7 done shall be paid from the Gross Settlement Amount. ILYM has capped the Administration
8 Expenses at \$6,350.00. The Court-approved Administration Fees will be paid out of the Gross
9 Settlement Amount within fifteen (15) days after the Settlement is funded by Defendant. The
10 Settlement Administrator is discussed further below.

11 j. PAGA Representative Service Payment: Plaintiff, as the "PAGA
12 Representative," will receive a Service Payment in an amount not to exceed Five Thousand Dollars
13 and Zero Cents (\$5,000.00) to compensate him for the time spent in the Action on behalf of the State
14 of California. The Service Payment is in addition to any Settlement Award that Plaintiff would
15 otherwise be due under the Settlement as a PAGA Member. The Court-approved PAGA
16 Representative Service Payment will be paid within fifteen (15) days after the Settlement is funded
17 by Defendant.

18 SETTLEMENT ADMINISTRATION

19 15. The Settlement Administrator will send an agreed upon explanatory notice of the
20 Settlement, attached hereto as **Exhibit A**, along with the Settlement Award to all PAGA Members
21 as discussed herein. The Settlement Administrator will calculate the Settlement Award amounts
22 due to PAGA Members in accordance with this Stipulation of Settlement. The Settlement
23 Administrator shall report, in summary or narrative form, the substance of its findings. The
24 Settlement Administrator shall establish a settlement fund that meets the requirements of a Qualified
25 Settlement Fund ("QSF") under US Treasury Regulation section 468B-1. Upon receipt of funds
26 from Defendant and as provided by the terms of the Settlement, the Settlement Administrator will
27 issue and send out the Settlement Awards to PAGA Members. Tax treatment of the Settlement
28 Awards will be as set forth herein, and in accordance with state and federal tax laws. All disputes

1 relating to the Settlement Administrator's performance of duties shall be referred to the Court, if
2 necessary, which will have continuing jurisdiction over the terms and conditions of this Stipulation
3 of Settlement until all payments and obligations contemplated by this Stipulation of Settlement have
4 been fully carried out.

5 ATTORNEYS' FEES AND COSTS

6 16. In consideration for settling this matter and in exchange for the release of claims by
7 Plaintiff and the PAGA Members, and subject to approval or modification by the Court, PAGA
8 Counsel's attorneys' fees and costs shall be subtracted from the Gross Settlement Amount, as
9 approved by the Court. Subject to Court approval, PAGA Counsel's attorney's fees shall be an
10 amount not to exceed 33.33% of the Gross Settlement Amount, that is \$95,978.00. In addition, and
11 also subject to Court approval, PAGA Counsel shall be reimbursed for their actual out-of-pocket
12 expenses and legal costs (subject to proof) in an amount not to exceed \$30,000. Subject to the
13 maximum application amount of these above stated amounts, attorneys' fees and costs approved by
14 the Court will cover all work performed and all fees and costs incurred to date, and all work to be
15 performed and all fees and costs to be incurred in connection with the approval by the Court of this
16 Stipulation of Settlement, the administration of the Settlement, and obtaining the Judgment in this
17 case. The attorneys' fees and costs approved by the Court shall be paid out of the Settlement
18 Administrator's QSF to PAGA Counsel within fifteen (15) days after the Settlement is funded by
19 Defendant.

20 17. The Released Parties shall have no liability to PAGA Counsel or any other of
21 Plaintiff's counsel arising from any claim to any portion of PAGA Counsel's attorneys' fees and
22 costs. The Settlement Administrator will pay PAGA Counsel's attorneys' fees and costs using one
23 or more IRS 1099-MISC Forms. PAGA Counsel assumes full responsibility and liability for taxes
24 owed on the attorneys' fees and costs incurred as a result of the Action and holds Defendant
25 harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or
26 sharing of any of these payments for attorneys' fees and costs by Defendant pursuant to this
27 Settlement.

28

1 SETTLEMENT AWARD ADMINISTRATION

2 18. Thirty (30) calendar days after the Parties have executed this Stipulation of
3 Settlement, Defendant shall provide to the Settlement Administrator a spreadsheet, which will list
4 for each PAGA Member the PAGA Member's name, last-known address, last-known telephone
5 number, and the number of pay periods worked through the date of the report (the "PAGA Members'
6 Data"). This spreadsheet shall be based on Defendant's payroll and other business records. The
7 Settlement Administrator will run a check of the PAGA Members' address against those on file with
8 the U.S. Postal Service's National Change of Address Database. Within fifteen (15) calendar days
9 after the Settlement is funded by Defendant, the Settlement Administrator will mail the Settlement
10 Notice to all PAGA Members with the PAGA Members' individual Settlement Awards.

11 a. Prior to the mailing of the Settlement Notice and Settlement Awards, the
12 Settlement Administrator will search for updated addresses through the U.S. Postal Service's
13 National Address Database. Notices returned to the Settlement Administrator as non-
14 delivered shall be re-mailed to the forwarding address, if any, on the returned envelope; any
15 returned envelopes with forwarding addresses will be used by the Settlement Administrator
16 to forward the Settlement Notice and Settlement Awards to the PAGA Members. If no
17 forwarding address is provided, the Settlement Administrator will perform a computer
18 search for a new address and an additional skip tracing pursuant to its usual and customary
19 procedures.

20 b. All costs associated with the Settlement Notices are part of, and included
21 within, the Gross Settlement Amount.

22 SETTLEMENT AWARD PROCESS

23 19. Within fifteen (15) days after the Settlement is funded, the Settlement Awards will
24 be mailed to the PAGA Members along with the Settlement Notice. The Settlement Award checks
25 shall remain valid and negotiable for 180 calendar days from the date of issuance and will be
26 cancelled by the Settlement Administrator if not cashed within that time. The checks provided to
27 the PAGA Members shall prominently state the checks will expire in 180 calendar days, or
28 alternatively, such a statement may be made in the Settlement Notice accompanying the check.

1 PAGA Members shall be bound by the Settlement whether or not they cash their Settlement Award
2 check.

3 20. Any unclaimed funds in the Settlement Administrator's QSF as a result of a failure
4 to timely cash a Settlement Award check shall be paid out to the Monarch School, as the *cy pres*
5 recipient pursuant to Code of Civil Procedure Section 384, subject to Court approval.

6 RELEASED CLAIMS

7 21. Release by Aggrieved Employees: Upon approval by the Court of this Stipulation of
8 Settlement, all PAGA Members, including Plaintiff, on behalf of themselves and their former and
9 present representatives, agents, attorneys, heirs, administrators, successors, and assigns, fully
10 release and discharge the Released Parties from any and all claims, causes of action, damages,
11 expenses, benefits, interest, penalties, attorneys' fees and costs, and any other form of relief or
12 remedy in law, equity, or whatever kind or nature that were asserted or could have been asserted
13 based on the facts alleged and with respect to the claims asserted in Plaintiff's LWDA Notice Letter
14 and the Lawsuit for the entire PAGA Period.

15 22. Release by PAGA Counsel: PAGA Counsel release, on behalf of their present and
16 former attorneys, employees, agents, successors, and assigns, the Released Parties from all claims
17 for PAGA penalties or attorneys' fees that were alleged or reasonably could have been alleged,
18 based on the facts stated in Plaintiff's Complaint and the LWDA Notice Letter during the PAGA
19 Period.

20 23. Plaintiff's Release: Upon approval by the Court of this Stipulation of Settlement,
21 Plaintiff and his former and present spouses, representatives, agents, attorneys (including PAGA
22 Counsel), heirs, administrators, successors, and assigns generally, release and discharge the
23 Released Parties from all claims, transactions, or occurrences that occurred during the PAGA
24 Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged,
25 based on the facts contained in the Complaint and the LWDA Notice Letter ("Plaintiff's Release").
26 Plaintiff's Release does not extend to any claims or actions to enforce this Stipulation of Settlement,
27 or to any claims for vested benefits, unemployment benefits, disability benefits, social security
28 benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the

1 PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in
2 addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless,
3 that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different
4 or additional facts or Plaintiff's discovery of them.

5 24. Plaintiff's Waiver of Rights Under California Civil Code Section 1542: For purposes
6 of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits,
7 if any, of section 1542 of the California Civil Code, which reads: A general release does not extend
8 to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at
9 the time of executing the release, and that if known by him or her would have materially affected
10 his or her settlement with the debtor or Released Party.

11 PARTIES' DUTIES TO OBTAIN COURT APPROVAL OF THE PAGA SETTLEMENT

12 25. Plaintiff shall promptly submit this Stipulation of Settlement to the Court within one
13 (1) week of all signatures being obtained from Plaintiff and Defendant, and their respective counsel.
14 This Settlement shall remain confidential until filed with the Court. Promptly upon execution of
15 this Stipulation of Settlement, Plaintiff shall apply to the Court for entry of an order approving the
16 PAGA Settlement consistent with the terms provided herein.

17 PARTIES' AUTHORITY

18 26. The signatories hereto hereby represent that they are fully authorized to enter into
19 this Stipulation of Settlement and bind the Parties hereto to the terms and conditions thereof.

20 MUTUAL FULL COOPERATION

21 27. The Parties agree to fully cooperate with each other to accomplish the terms of this
22 Stipulation of Settlement, including but not limited to, execution of such documents and taking such
23 other action as reasonably may be necessary to implement the terms of this Stipulation of Settlement.
24 Once the Settlement is final and effective, the Parties agree to seek final dismissal of the Lawsuit.
25 The Parties to this Stipulation of Settlement shall use their best efforts, including all efforts
26 contemplated by this Stipulation of Settlement and any other efforts that may become necessary by
27 order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the terms set forth
28 herein. As soon as practicable after execution of this Stipulation of Settlement, PAGA Counsel

1 shall, with the assistance and cooperation of Defendant and its counsel, take all necessary steps to
2 secure the Court's final approval of this Stipulation of Settlement.

3 NO PRIOR ASSIGNMENTS

4 28. The Parties and their counsel represent, covenant and warrant that they have not
5 directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber
6 to any person or entity any portion of any liability, claim, demand, action, cause of action or right
7 herein released and discharged except as set forth herein.

8 NO ADMISSION

9 29. Nothing herein shall constitute any admission by Defendant of wrongdoing or
10 liability, or of the truth of any factual allegations in the Lawsuit. Nothing herein shall constitute an
11 admission by Defendant that the Lawsuit was properly brought as a representative action other than
12 for settlement purposes. To the contrary, Defendant has denied and continues to deny each and
13 every material factual allegation and alleged claim asserted in the Lawsuit. To this end, the
14 settlement of the Lawsuit, the negotiation and execution of this Stipulation of Settlement, and all
15 acts performed or documents executed pursuant to or in furtherance of this Stipulation of Settlement
16 or the settlement are not, shall not be deemed to be, and may not be used as, an admission or evidence
17 of any wrongdoing or liability on the part of Defendant or of the truth of any of the factual allegations
18 in the Lawsuit; and are not, shall not be deemed to be, and may not be used as, an admission or
19 evidence of any fault or omission on the part of Defendant in any civil, criminal or administrative
20 proceeding any court, administrative agency or other tribunal.

21 CONSTRUCTION

22 30. The Parties hereto agree that the terms and conditions of this Stipulation of
23 Settlement are the result of lengthy, intensive arms-length negotiations between the Parties and
24 through a third-party mediator, and this Stipulation of Settlement shall not be construed in favor of
25 or against any party by reason of the extent to which any party or his, her or its counsel participated
26 in the drafting of this Stipulation of Settlement. All Parties have contributed to the preparation and
27 drafting of this Stipulation of Settlement.

28

1 CAPTIONS AND INTERPRETATIONS

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

6 MODIFICATION

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

11 INTEGRATION CLAUSE

12 33. This Stipulation of Settlement contains the entire agreement between the Parties
13 relating to the settlement transaction contemplated hereby, and all prior or contemporaneous
14 agreements, understandings, representations and statements, whether oral or written and whether by
15 a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except
16 in writing.

17 BINDING ON ASSIGNS

18 34. This Stipulation of Settlement shall be binding upon and inure to the benefit of the
19 Parties and their respective heirs, trustees, executors, administrators, successors and assigns.

20 PAGA MEMBER SIGNATORIES

21 35. It is agreed that because the PAGA Members are so numerous, it is impossible or
22 impractical to have each PAGA Member execute this Stipulation of Settlement. Further, it is not
23 legally required for each PAGA Member to sign in order for the Settlement to be binding upon the
24 State of California and PAGA Members.

25 COUNTERPARTS

26 36. This Stipulation of Settlement may be executed in counterparts and by facsimile
27 signatures, and when each party has signed and delivered at least one such counterpart, each
28 counterpart, including email and PDF versions, shall be deemed an original and, when taken together

1 with other signed counterparts, shall constitute one Stipulation of Settlement binding upon and
2 effective as to all Parties.

3 NO PUBLICITY MEDIA AND PRESS COMMUNICATIONS

4 37. Plaintiff agrees that he will not publicize this litigation or this Settlement in any
5 manner. Plaintiff and PAGA Counsel agree that they will not issue any press releases, initiate any
6 contact with the press, respond to any press inquiry, or have any communication with the press about
7 this case. If contacted by the press or media, Plaintiff may only state that the case has been resolved.
8 Plaintiff will refrain from discussing the terms or the fact of this Settlement with third parties other
9 than: (1) his immediate family members; and (2) his accountants or lawyers as necessary for tax
10 purposes. If he is asked by any person or entity about the matter, he may only state that the case has
11 been resolved.

12 NO TAX ADVICE

13 38. Neither Plaintiff, PAGA Counsel, nor Defendant's counsel are providing any advice
14 regarding taxes or taxability, nor shall anything in this Stipulation of Settlement be relied upon as
15 such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
16 amended) or otherwise.

17 CONTINUING JURISDICTION OF THE COURT

18 39. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over
19 the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Stipulation of
20 Settlement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing
21 such post-Judgment matters as are permitted by law.

22 40. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
23 conditions of this Agreement, the Parties, their respective counsel waive all rights to appeal from
24 the Judgment, including all rights to post-judgment and appellate proceedings, the right to file
25 motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of
26 appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another
27 party appeals the Judgment, the Parties' obligations to perform under this Agreement will be
28 suspended until such time as the appeal is finally resolved and the Judgment becomes final, except

1 as to matters that do not affect the amount of the Net Settlement Amount.

2 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
3 Stipulation of Settlement and Release between Plaintiff and Defendants as of the date(s) set forth
4 below:

5
6 **PLAINTIFF AND PAGA REPRESENTATIVE**

7 Dated: Nov 14, 2023

PLAINTIFF EDMUNDO HOLGUIN

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10 By Edmundo Holguin (Nov 14, 2023 09:13 PST)
EDMUNDO HOLGUIN

11 **DEFENDANT**

12 Dated: _____

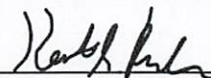
DEFENDANT HAWTHORNE MACHINERY
13 CO.

14 By _____
15 Jeffrey Boman
16 General Counsel
17 on Behalf of HAWTHORNE
MACHINERY CO.

18 **APPROVED AS TO FORM**

19
20 Dated: November 9, 2023

CASTLE LAW: CALIFORNIA
EMPLOYMENT COUNSEL, PC

21
22 By 
23 Timothy B. Del Castillo
24 Kent L. Bradbury
Attorneys for Plaintiff

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Dated: November 9, 2023

BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

By: 
Kyle Nordrehaug
Attorneys for Plaintiff

Dated: _____

PROCOPIO, CORY, HARGREAVES &
SAVITCH, LLP

By _____
Marie Burke Kenny
Ashley N. Fasano
Attorneys for Defendant Hawthorne
Machinery Co.

1 as to matters that do not affect the amount of the Net Settlement Amount.

2 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
3 Stipulation of Settlement and Release between Plaintiff and Defendants as of the date(s) set forth
4 below:

5
6 **PLAINTIFF AND PAGA REPRESENTATIVE**

7 Dated: _____

PLAINTIFF EDMUNDO HOLGUIN

8

9

10

By _____
EDMUNDO HOLGUIN

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DEFENDANT

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Dated: November 9, 2023

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DEFENDANT HAWTHORNE MACHINERY
CO.

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DocuSigned by:
By Jeff Boman
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Jeffrey Boman
General Counsel
on Behalf of HAWTHORNE
MACHINERY CO.

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APPROVED AS TO FORM

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Dated: _____

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CASTLE LAW: CALIFORNIA
EMPLOYMENT COUNSEL, PC

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By _____
Timothy B. Del Castillo
Kent L. Bradbury
Attorneys for Plaintiff

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Dated: _____

BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

By: _____
Kyle Nordrehaug
Attorneys for Plaintiff

Dated: November 9, 2023

PROCOPIO, CORY, HARGREAVES &
SAVITCH, LLP

DocuSigned by:
By: Ashley Fasano
425A6F3E771C45E...
Marie Burke Kenny
Ashley N. Fasano
Attorneys for Defendant Hawthorne
Machinery Co.

(Holguin) Joint Stip re PAGA Settlement Final 11 9 2023 - KRN signed

Final Audit Report

2023-11-14

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By:	Ron Buchanan (rb@castleemploymentlaw.com)
Status:	Signed
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