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Attorneys for Defendants MARSPRING CORPORATION and RELIANCE UPHOLSTERY SUPPLY CO., INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**  
**SPRING STREET COURTHOUSE**

DAVID HILARIO,

Plaintiff,

v.

MARSPRING CORPORATION dba LOS  
ANGELES FIBER COMPANY; and DOES  
1 through 50, inclusive,

Defendant.

Case No. 19STCV26229

**CLASS ACTION**

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

Assigned for all purposes to:  
Hon. Kenneth R. Freeman, Dept.: SS14

Complaint Filed: July 29, 2019  
Trial Date: Not Yet Set

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

2                   IT IS HEREBY STIPULATED, by and among Plaintiff DAVID HILARIO, on behalf of  
3 himself and the Settlement Class Members on the one hand, and Defendants MARSPRING  
4 CORPORATION dba LOS ANGELES FIBER COMPANY and RELIANCE UPHOLSTERY  
5 SUPPLY CO., INC. dba Reliance Carpet Cushion, on the other hand, and subject to the approval  
6 of the Court, that the above-captioned action is hereby being compromised and settled pursuant  
7 to the terms and conditions set forth in this Joint Stipulation of Class Action Settlement and  
8 Release (the "Settlement").

9                   **1. DEFINITIONS**

10 Capitalized terms used in this Settlement shall have the meanings set forth below:

11                   1.1.     "Claims Administrator" means Phoenix Settlement Administrators.

12                   1.2.     "Claims Administration Costs" means the amount to be paid to the third-party  
13 Claims Administrator from the Gross Settlement Amount for the administration of the Settlement.  
14 The Claims Administration Costs amount is not to exceed Twenty Thousand Dollars  
15 (\$20,000.00). Any portion of the requested Claims Administration Costs that is not awarded to  
16 the Claims Administrator shall be part of the Net Settlement Amount.

17                   1.3.     "Class Claims" means the claims or causes of action arising from the facts alleged  
18 or that could have been alleged in the Hilario Action on behalf of Plaintiff and all others similarly  
19 situated, including but not limited to, all wage and hour claims for unpaid wages including  
20 minimum wage payments, failure to pay wages during employment, failure to pay overtime, meal  
21 and rest break violations, wage statement violations, reimbursement, restitution, disgorgement,  
22 conversion, unjust enrichment, civil and statutory penalties, interests, liquidated damages,  
23 attorneys' fees and costs, claims under California Labor Code Sections 201, 201.1, 201.3, 201.5,  
24 201.7, 201.9, 202, 203, 204, 205.5, 206, 210, 212, 218, 218.5, 218.6, 219, 224, 226, 226.3, 226.7,  
25 256, 510, 511, 512, 515, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698-2699, 2802,  
26 Industrial Welfare Commission Wage Order Nos. 1-17, and claims under California Business &  
27 Professions Code sections 17200-17204.

28                   1.4.     "Class Counsel" means Kevin Mahoney and Berkeh Alemzadeh of the Mahoney

1 Law Group, APC.

2 1.5. "Class Counsel Award" means reasonable attorneys' fees for Class Counsel's  
3 litigation and resolution of this Action in a maximum amount of One Hundred Ninety-Two  
4 Thousand Five Hundred Dollars (\$192,500.00), which amount is thirty-five percent (35%) of the  
5 Gross Settlement Amount. The Court shall determine the amount of the Class Counsel Award,  
6 and it shall be paid from the Gross Settlement Amount. Any portion of the requested Class  
7 Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount.

8 1.6. "Class Counsel Costs" means expenses incurred by Class Counsel for Class  
9 Counsel's litigation and resolution of this Action, not to exceed Twenty Thousand Dollars  
10 (\$20,000.00). The Court shall determine the amount of the Class Counsel Costs, and it shall be  
11 paid from the Gross Settlement Amount. Any portion of the requested Class Counsel Costs that  
12 is not awarded to Class Counsel shall be part of the Net Settlement Amount.

13 1.7. "Class Information" means information regarding Settlement Class Members that  
14 Defendants will in good faith compile from their records and provide to the Claims Administrator.  
15 Class Information shall be provided as a Microsoft Excel spreadsheet and shall include: each  
16 Settlement Class Member's full name; last known address; last known home telephone number;  
17 social security number; start and end dates of employment during the Class Period; and the total  
18 number of estimated workweeks each Settlement Class Member worked for Defendants during  
19 the Class Period. Because social security numbers are included in the Class Information, the  
20 Claims Administrator shall maintain the Class Information in confidence; access shall be limited  
21 to those with a need to use the Class Information as part of the administration of the Settlement;  
22 and transmission shall be through use of a secure, password-protected file.

23 1.8. "Class Period" means the period from July 29, 2015, through and including the  
24 Preliminary Approval Date.

25 1.9. "Class Representative Enhancement Award" means the amount that the Court  
26 authorizes to be paid to Plaintiff, not to exceed Seven Thousand Five Hundred Dollars  
27 (\$7,500.00), in addition to Plaintiff's Individual Settlement Payment, in recognition of Plaintiff's  
28 efforts and risks in assisting with the prosecution of the Action. The Class Representative

1 Enhancement Award shall be paid from the Gross Settlement Amount. Any portion of the  
2 requested Class Representative Enhancement Award that is not awarded to Plaintiff shall be part  
3 of the Net Settlement Amount.

4 1.10. "Court" means the Superior Court of the State of California for the County of Los  
5 Angeles.

6 1.11. "Defendants" mean Marspring Corporation dba LA Fiber and Reliance Upholstery  
7 Supply Co., Inc., and all of their current and former parents, owners, subsidiaries, predecessors  
8 and successors, and each of their respective officers, directors, partners, shareholders and agents,  
9 and any other successors, assigns, or legal representatives.

10 1.12. "Defense Counsel" means Thomas Ingrassia, Andrew Chung, and Mihret  
11 Getabicha of PETIT KOHN INGRASSIA LUTZ & DOLIN, PC.

12 1.13. "Effective Date" means the date upon which all of the following events have  
13 occurred: (1) the date of final affirmation of the Final Approval from any appeal, the expiration  
14 of the time for, or the denial of, a petition to review the Final Approval, or if review is granted,  
15 the date of final affirmation of the Final Approval following review pursuant to that grant; or (2)  
16 the date of final dismissal of any appeal from the Final Approval or the final dismissal of any  
17 proceeding to review the Final Approval, provided that the Final Approval is affirmed and/or not  
18 reversed in any part; or (3) if no class members intervene but objections are filed, the expiration  
19 date of the time for the filing or noticing of any appeal from the Court's Final Approval of the  
20 Settlement, as determined under Rule 8.104(a)(3) of the California Rules of Court or (4) if no  
21 class members intervene and there are no objections, the date the Court enters the Final Approval  
22 Order and Final Judgment.

23 1.14. "Employee Taxes" means the employee's share of any and all applicable federal,  
24 state, and local payroll taxes on the portion of Participating Class Members' Individual  
25 Settlement Payment that constitutes wages. The Employee Taxes will be paid out of the Net  
26 Settlement Amount.

27 1.15. "Employer Taxes" means the employer's share of any and all applicable federal,  
28 state, and local payroll taxes on the portion of Participating Class Members' Individual

1 Settlement Payment that constitutes wages. The Employer Taxes will be paid by Defendants  
2 Marspring Corporation dba LA Fiber and Reliance Upholstery Supply Co., Inc., and not out of  
3 the Gross Settlement Amount or Net Settlement Amount.

4 1.16. "Final Approval Hearing" means the hearing held on the motion for final approval  
5 of the Settlement.

6 1.17. "Final Approval Date" means the date on which the Court grants final approval of  
7 the Settlement.

8 1.18. "Final Judgment" means the Court's entry of an order of judgment in this Action  
9 following the Court's final approval of the Settlement.

10 1.19. "Gross Settlement Amount" means the maximum amount Defendants shall have  
11 to pay in connection with this Settlement, by way of a common fund, which shall be inclusive  
12 of all Individual Settlement Amounts to Participating Class Members, Class Counsel Award,  
13 Class Counsel Costs, Claims Administrator Costs, Class Representative Enhancement Award,  
14 Employee Taxes, and PAGA Allocation. Subject to Court approval and the terms of this  
15 Settlement, the Gross Settlement Amount Defendants shall be required to pay is Five Hundred  
16 Fifty Thousand Dollars (\$550,000.00). No portion of the Gross Settlement Amount will revert  
17 to Defendant, and the Settlement does not require Participating Class Members to submit claims  
18 as a prerequisite to receiving their Individual Settlement Payment. This settlement sum is based  
19 on Defendant's representation that the class size as of September \_\_, 2020 is one hundred sixty-  
20 three (163) individuals. Defendant shall not be required to pay more than the Gross Settlement  
21 Amount as long as the class size does not increase by more than ten (10) percent as of the  
22 Preliminary Approval Date. Should the class size increase by more than ten percent (10%),  
23 Defendants will have the option of either voiding the Settlement or paying an increased Gross  
24 Settlement Amount which will increase on a proportional basis. above (i.e., if the actual class  
25 size increase by 11%, the Settlement will also increase by 11%). Under no other circumstance  
26 shall Defendants be required to pay more than the Gross Settlement Amount except as provided  
27 for in this Settlement.

28 1.20. "Hilario Action" shall mean the lawsuit entitled *Hilario v. Marspring Corporation*

1 *dba Los Angeles Fiber Company*, and DOES 1 through 50, pending in the Superior Court of the  
2 State of California, County of Los Angeles, and designated as Case No. 19STCV26229.

3 1.21. "Individual Settlement Payment" means the amount payable to each Settlement  
4 Class Member from the Net Settlement Amount. Checks for Individual Settlement Payments will  
5 specifically indicate that they are void if not negotiated within one hundred eight (180) days of  
6 their issuance.

7 1.22. "LWDA PAGA Allocation" means three thousand seven hundred fifty dollars  
8 (\$3,750.00), representing seventy five percent (75%) of the PAGA Allocation, and is the amount  
9 payable from the Gross Settlement Amount to California's Labor Workforce Development  
10 Agency.

11 1.23. "Net Settlement Amount" means the Gross Settlement Amount, less (i) the Class  
12 Representative Payment approved by the Superior Court; (ii) the Class Counsel Fees Payment  
13 approved by the Superior Court; (iii) the Class Counsel Litigation Expenses Payment approved  
14 by the Superior Court (iv) the LWDA PAGA Allocation approved by the Superior Court; (v) the  
15 Claims Administrator Costs approved by the Superior Court, (vi) Employee Taxes, (vii) any other  
16 fees or expenses (other than Class Counsel Fees Payment and Class Counsel Litigation Expenses  
17 Payment) incurred by implementing the terms and conditions of this Agreement as approved by  
18 the Superior Court.

19 1.24. "Non-Participating Class Member" shall mean a Settlement Class Member who  
20 submits a complete, valid and timely request to be excluded from the Settlement with respect to  
21 Class Claims only pursuant to the instructions provided in the Class Notice and/or who has signed  
22 a release with Defendants to resolve any claims as alleged in the Hilario Action or based on facts  
23 as alleged in the Hilario Action.

24 1.25. "Notice of Objection" means a written statement of objection to the Settlement  
25 made and signed by a Settlement Class Member and includes the following: (1) the full name of  
26 the Settlement Class Member; (2) the dates of employment of the Settlement Class Member; (3)  
27 the last four (4) digits of the Settlement Class Member's Social Security number and/or the  
28 Employee ID number; (4) the basis for the objection; and, (5) whether the Settlement Class

1 Member intends to appear at the Final Approval Hearing.

2 1.26. "Notice of Settlement" means the Notice of Proposed Class Action Settlement  
3 (substantially in the form attached hereto as **Exhibit "A"**).

4 1.27. "Notice Packet" means the Notice of Proposed Class Action Settlement and the  
5 Request for Exclusion.

6 1.28. "PAGA Allocation" means five thousand (\$5,000.00), allocated from the Gross  
7 Settlement Amount for the compromise of claims for civil penalties brought under the Labor Code  
8 Private Attorneys General Act of 2004 ("PAGA").

9 1.29. "PAGA Claim" means any and all claims or causes of action arising from the facts  
10 alleged or that could have been alleged in the Hilario Action on behalf of Plaintiff and any  
11 allegedly aggrieved employees to recover civil penalties pursuant to PAGA for any alleged  
12 violations by Defendants of the California Labor Code, including but not limited to sections 201-  
13 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802, and  
14 the related applicable IWC Wage Order provision.

15 1.30. "Participating Class Members" means all Settlement Class Members who do not  
16 submit a valid and timely Request for Exclusion.

17 1.31. "Parties" means Plaintiff and Defendant collectively, and "Party" shall mean any  
18 Plaintiff or any Defendant, individually.

19 1.32. "Plaintiff" means David Hilario.

20 1.33. "Plaintiff's General Released Claims" means, in addition to the releases made by  
21 Participating Class Member, Plaintiff, on behalf of himself, his heirs, marital community,  
22 successors, assigns, and estates, in exchange for the terms and conditions of this Agreement,  
23 including the Class Representative Enhancement Award requested or as otherwise authorized by  
24 the Court, shall also, as of the Effective Date, fully and forever release the Released Parties, to  
25 the full extent permitted by law, of and from any and all claims arising from their employment  
26 with Defendant, known and unknown, asserted and unasserted, concealed or hidden, which  
27 Plaintiff had or may have had against the Released Parties, whether sounding in tort, in contract,  
28 in law, in equity or otherwise, and including but not limited to all claims for violation of any local,

1 state, or federal statute, rule, or regulation.

2 1.34. "Preliminary Approval Date" means the date the Court enters the Preliminary  
3 Approval Order for the Settlement.

4 1.35. "Preliminary Approval Order" means the Proposed Order (filed concurrently with  
5 this Settlement) for preliminary approval of the Settlement.

6 1.36. "Released Claims" means any and all wage and hour claims arising from the facts  
7 alleged or that could have been alleged in the Hilario Action, including all wage and hour claims  
8 for unpaid wages including minimum wage payments, failure to pay wages during employment,  
9 failure to pay overtime, meal and rest break violations, wage statement violations,  
10 reimbursement, restitution, disgorgement, conversion, unjust enrichment, civil and statutory  
11 penalties, interests, liquidated damages, attorneys' fees and costs, claims under California Labor  
12 Code Sections 201, 201.1, 201.3, 201.5, 201.7, 201.9, 202, 203, 204, 205.5, 206, 210, 212, 218,  
13 218.5, 218.6, 219, 224, 226, 226.3, 226.7, 256, 510, 511, 512, 515, 558, 1194, 1194.2, 1197,  
14 1197.1, 1198, 1199, 2698-2699, 2802, Industrial Welfare Commission Wage Order Nos. 1-17,  
15 and claims under California Business & Professions Code sections 17200-17204. It is understood  
16 and agreed that Released Claims do not include claims for workers compensation,  
17 unemployment, or disability benefits of any nature, nor any claims, actions, or causes of action  
18 which may be possessed by Settlement Class Members under state or federal discrimination  
19 statutes, including, without limitation, the Cal. Fair Employment and Housing Act, the Cal.  
20 Government Code § 12940, et seq.; the Unruh Civil Rights Act, the Cal. Civil Code § 51, et seq.;  
21 the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, et seq.;  
22 the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, et seq.; the Employee  
23 Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, et seq.; and all of their  
24 implementing regulations and interpretive guidelines.

25 1.37. "Released Parties" means ~~David Hilario~~, Marspring Corporation dba LA Fiber,  
26 and Reliance Upholstery Supply Co., Inc. dba Reliance Carpet Cushion, and all of its current,  
27 former, and future parents, owners, subsidiaries, predecessors and successors, including but not  
28 limited to Ronald Greitzer, and each of their respective officers, directors, partners, shareholders

1 and agents, attorneys, business managers, insurers, and any other successors, assigns, or legal  
2 representatives, and any other individual or entity which could be jointly liable with any of the  
3 following.

4 1.38. "Request for Exclusion" means the Request for Exclusion form as pertaining to  
5 Class Claims (substantially in the form attached hereto as **Exhibit B**).

6 1.39. "Response Deadline" means the date forty-five (45) days after the Claims  
7 Administrator mails Notice Packets to Settlement Class Members, and shall be the last date on  
8 which Settlement Class Members may: (a) postmark Requests for Exclusion from the Settlement,  
9 or (b) postmark Objections to the Settlement.

10 1.40. "Settlement Class Member(s)" or "Settlement Class" means all non-exempt  
11 employees, currently and formerly employed by Defendant, in the State of California during the  
12 Class Period.

## 13 2. RECITALS

14 2.1. Class Certification. The Parties stipulate and agree to class certification of the  
15 Hilario Action for purposes of this Settlement only. Should the Settlement not become final and  
16 effective, class certification shall immediately be set aside (subject to further proceedings on  
17 motion of any party to certify or deny certification thereafter). The Parties' willingness to  
18 stipulate to class certification as part of the Settlement shall have no bearing on and shall not be  
19 admissible in or considered in connection with, the issue of whether a class should be certified in  
20 a non-settlement context in the Hilario Action, and shall have no bearing on and shall not be  
21 admissible or considered in connection with the issue of whether a class should be certified in any  
22 other lawsuit.

23 2.2. Procedural History. On July 29, 2019, Plaintiff David Hilario, a former employee  
24 of Defendant Marspring Corporation dba LA Fiber ("Marspring"), filed the Hilario Action in the  
25 Superior Court of California for the County of Los Angeles as a proposed class action on behalf  
26 of all current and former non-exempt California employees of Defendant Marspring Corporation  
27 dba LA Fiber during the period of July 29, 2015, through the date of final judgment. Plaintiff  
28 Hilario alleged that Defendant Marspring (1) failed to pay all wages, including overtime wages;

1 (2) failed to provide meal periods; (3) failed to provide rest periods; (4) failed to pay wages upon  
2 termination of employment; (5) failed to indemnify for necessary business expenditures or losses  
3 in discharge of duties; and (6) engaged in unfair business practices. Plaintiff sought recovery  
4 under the California Labor Code, the applicable Industrial Welfare Commission Wage Order, and  
5 the California Business & Professions Code. On [date], Plaintiff Hilario filed an amended  
6 Complaint to name and Reliance Upholstery Supply Co., Inc. as "Doe 1."

7 2.3. On August 10, 2020, Plaintiff filed a Notice with the California Labor Workforce  
8 and Development Agency ("LWDA") alleging violations of PAGA. The LWDA did not provide  
9 notice of any intent to investigate the alleged violations within sixty-five (65) calendar days of  
10 the postmark date of the Notice. The Parties stipulated and Plaintiff thereafter filed a First  
11 Amended Complaint to include a cause of action for violations of the PAGA, all of which are  
12 premised on the facts, claims, causes of action, or legal theories presently asserted in the Lawsuit,  
13 as the PAGA representative on behalf of himself and all allegedly aggrieved employees.  
14 Defendants agree that, for settlement purposes, they will not challenge the statute of limitations  
15 applicable to 1) the notice required to be sent to the California Labor and Workforce Development  
16 Agency ("LWDA") pursuant to PAGA; or 2) the PAGA Claim that will be included in the  
17 Operative Complaint (as defined below). If the Court rejects Plaintiff as the PAGA  
18 representative, Defendant shall cooperate with Plaintiff in locating and securing one or more  
19 putative class members ("PAGA Representative(s)") who have sufficient standing to assert the  
20 PAGA claim against Defendants and who further consent to joining the Lawsuit as named  
21 plaintiff(s) and asserting the PAGA Claim against Defendants. Plaintiff shall promptly thereafter  
22 file an amended complaint adding the PAGA Representative(s) as named plaintiff(s) to bring the  
23 additional PAGA Claim. The complaint, as amended, to include a PAGA representative  
24 acceptable to the Court for purposes of bringing the PAGA Claim on behalf of himself and all  
25 allegedly aggrieved employees and to name Defendants shall be hereinafter referred to as the  
26 "Operative Complaint."

27 2.4. Settlement Negotiations. On June 3, 2020, the Parties participated in a private  
28 mediation session with mediator Steven Rottman, a well-respected, experienced mediator in the

1 field of wage and hour class actions. Prior to the mediation, Class Counsel conducted extensive  
2 informal discovery and investigation during the prosecution of the Class Action. The informal  
3 discovery and investigation included, among other things: (1) inspection and analysis of employee  
4 documents and data, including personnel files, time and payroll records, employment policies and  
5 procedures, and other relevant documents; (2) evaluation of legal positions taken by Defendant;  
6 (3) evaluation of potential class-wide damages and PAGA penalties; and (4) review and research  
7 of applicable law with respect to the claims and potential defenses brought by Defendant. Class  
8 Counsel has vigorously prosecuted this Class Action, and Defendants have vigorously defended  
9 it. The Parties have engaged in sufficient discovery and investigation to assess the relative merits  
10 of the claims and contentions of the Parties. Based on this information and the settlement  
11 discussions during the mediation conducted at arm's length and settlement discussions, the Parties  
12 came to an agreement on June 15, 2020. The settlement is the result of an informed and detailed  
13 evaluation of the potential liability of total exposure in relation to the costs and risks associated  
14 with continued litigation of the Hilario Action.

15 2.5. Benefits of Settlement to Settlement Class Members. Plaintiff and Class Counsel  
16 recognize the length of continued proceedings necessary to litigate their disputes through  
17 certification, trial, and any possible appeal. Plaintiff and Class Counsel have also taken into  
18 account the uncertainty and risk of the outcome of further litigation, the difficulties and delays  
19 inherent in such litigation, including, but not limited to, the risks related to a contested motion for  
20 class certification, and the risks related to liability raised by the issues in this case. Plaintiff and  
21 Class Counsel are also aware of the burdens of proof necessary to establish liability for the claims  
22 asserted in the Action and the difficulties in establishing damages for the Settlement Class  
23 Members. Plaintiff and Class Counsel have also taken into account Defendant's agreement to  
24 enter into a settlement that confers substantial relief upon Settlement Class Members. Based on  
25 the foregoing, Plaintiff and Class Counsel have determined that this Settlement is a fair, adequate,  
26 and reasonable, and is in the best interests of the Settlement Class Members.

27 2.6. Defendants' Denial of Wrongdoing and Liability and Reasons for Settlement.  
28 Defendants contends that the Settlement Class Members were properly and timely paid all wages

1 owed, including, but not limited to, all straight time and overtime, were properly reimbursed, and  
2 were provided meal and rest periods as required under California law. However, substantial  
3 amounts of time, energy and resources of Defendants have been and, unless this Settlement is  
4 made, will continue to be devoted to the defense of the claims asserted by Plaintiff and Settlement  
5 Class Members. Defendants have also taken into account the risks of further litigation in reaching  
6 their decision to enter into this Settlement. Defendants have concluded that further proceedings  
7 in the Hilario Action would be protracted and expensive and that it is desirable that the Hilario  
8 Action be fully and finally settled in the manner and upon the terms and conditions set forth in  
9 this Settlement in order to dispose of burdensome and protracted litigation, to permit the operation  
10 of Defendant's business without further expensive litigation and the distraction and diversion of  
11 its personnel with respect to matters at issue in the Hilario Action. Defendants have also taken  
12 into account the uncertainty and risks inherent in any litigation, especially in complex cases such  
13 as this Hilario Action. Defendant has therefore determined that it is desirable and beneficial to  
14 them that the Hilario Action be settled in the manner and upon the terms and conditions set forth  
15 in this Settlement.

16 2.7. No Admissions. The Parties understand and agree that this Settlement is the result  
17 of a good faith compromise of disputed claims and allegations, and the Parties are entering into  
18 this Settlement Agreement solely to resolve doubtful and disputed matters. No part of this  
19 Settlement Agreement or any conduct or written or oral statements made in connection with this  
20 Settlement, whether or not the Settlement Agreement is finally approved and/or consummated,  
21 may be offered as or construed to be an admission or concession of any kind by either of any of  
22 the Parties. In particular, but without limiting the generality of the foregoing, nothing about this  
23 Settlement or Settlement Agreement shall be offered or construed as an admission that  
24 Defendants and Released Parties have violated any of their obligations under the California  
25 Labor Code, or of liability in general, or any wrongdoing, impropriety, responsibility, or fault  
26 whatsoever on the part of Defendants and/or Released Parties. In addition, this Settlement  
27 Agreement shall not be offered or be admissible in evidence against any of the Parties or any of  
28 the Released Parties, except in any action or proceeding brought by or against Plaintiff, the

1 Class, Class Members, or Defendants to enforce its terms, or by Defendants in defense of any  
2 claims brought by Plaintiff, the Class, Class Members. The provision of this paragraph shall  
3 become effective when this Settlement is signed and shall be binding on the Parties and their  
4 counsel regardless of whether the Settlement Agreement is preliminarily and/or finally approved  
5 or terminated for any reason, or rendered null and void.

6 2.8. Settlement Class Members' Claims. Plaintiff claims that the Released Claims  
7 have merit and give rise to liability on the part of Defendants. This Settlement is a compromise  
8 of disputed claims. Nothing contained in this Settlement and no document referred to herein,  
9 nor any action taken to carry out this Settlement, may be construed or used as an admission by  
10 or against the Settlement Class Members or Class Counsel as to the merits or lack thereof of the  
11 claims asserted.

### 12 3. TERMS OF SETTLEMENT

13 In recognition and reliance upon the foregoing factual recitals, the Parties agree as  
14 follows:

15 3.1. Binding Settlement. This Settlement shall bind the Parties and all Participating  
16 Class Members, subject to the terms and conditions hereof and the Court's approval.

#### 17 3.2. Release as To Plaintiff and All Settlement Class Members.

18 3.2.1. Release as All Settlement Class Members. As of the Effective Date,  
19 all Settlement Class Members, including Plaintiff, who do not opt out  
20 of the Settlement, will be deemed to have fully, finally and forever  
21 released, settled, compromised, relinquished, and discharged the  
22 Released Parties from the Released Claims. All Settlement Class  
23 Members, whether or not they have opted out of the Settlement, will be  
24 deemed to have fully, finally and forever released, settled,  
25 compromised, relinquished, and discharged the Released Parties from  
26 the PAGA Claim.

27 3.2.2. Release as To Plaintiff. As of the Effective Date, Plaintiff will be  
28

1 deemed to have fully, finally and forever released, settled,  
2 compromised, relinquished, and discharged any and all of Plaintiff's  
3 General Released Claims against the Released Parties. With respect to  
4 the Plaintiff's General Released Claims only, Plaintiff shall be deemed  
5 to have, and by operation of the Final Judgment shall have, expressly  
6 waived and relinquished, to the fullest extent permitted by law, the  
7 provisions, rights, and benefits of Section 1542 of the California Civil  
8 Code, or any other similar provision under federal or state law, which  
9 section provides:

10 *A general release does not extend to claims which the creditor does not know or*  
11 *suspect to exist in his or her favor at the time of executing the release, which if*  
12 *known by him or her must have materially affected his or her settlement with*  
13 *the debtor.*  
14

15 Plaintiff may hereafter discover facts in addition to or different from those Plaintiff now  
16 knows or believes to be true with respect to the subject matter of the Plaintiff's General Released  
17 Claims, but upon the Effective Date, shall be deemed to have, and by operation of the Final  
18 Judgment shall have, fully, finally, and forever settled and released any and all of the Plaintiff's  
19 General Released Claims, whether known or unknown, suspected or unsuspected, concealed or  
20 hidden, contingent or non-contingent, which now exist, or heretofore have existed, upon any  
21 theory of law or equity now existing or coming into existence in the future, including, but not  
22 limited to, conduct that is negligent, intentional, with or without malice or a breach of any duty,  
23 law or rule, without regard to the subsequent discovery or existence of such different or additional  
24 facts. Plaintiff agrees not to sue or otherwise make a claim against any of the Released Parties for  
25 Plaintiff's General Released Claims.

26 3.3. Pursuant to this Agreement, Defendants and Released Parties and on behalf of  
27 their agents, representatives, attorneys, insurers, assigns, and/or anyone acting on their  
28 respective behalf, and in consideration of the promises, assurances, and covenants set forth in

1 this Agreement, hereby fully release the Employee and Employee's heirs, agents,  
2 representatives, assigns, executors, and/or anyone on Employee's behalf (collectively, the  
3 "Employee Released Parties") from all claims or causes of action by reason of any injuries  
4 and/or damages or losses, known or unknown, foreseen or unforeseen, patent or latent, which  
5 the Company has sustained or which may be sustained as a result of any facts and circumstances  
6 arising out of or in any way related to Employee's employment with the Company, and to any  
7 other disputes, claims, disagreements, or controversies between the Parties up to and including  
8 the date this Agreement is signed.

9 3.4. Tax Liability. The Parties understand and agree that the Parties are not providing  
10 tax or legal advice. Defendants are responsible for any Employer Taxes. These payments shall  
11 not be made from the Gross Settlement Amount or the Net Settlement Amount. Participating  
12 Class Members will remain responsible for any Employee Taxes, which payments shall be  
13 deducted from the Net Settlement Amount. Participating Class Members will assume any  
14 employee tax obligations or consequences that may arise from this Settlement and should  
15 consult with a tax expert if they have questions. However, Individual Settlement Payments will  
16 be allocated as follows: twenty percent (20%) as wages (a W-2 will be issued) and eighty percent  
17 (80%) as interest and penalties (a 1099 will be issued). Any required payroll deductions will be  
18 based on this apportionment. The Parties agree that, in the event that any taxing body determines  
19 that additional employee taxes are due from any Participating Class Member, such Participating  
20 Class Member assumes all responsibility for the payment of such taxes.

21 3.5. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision  
22 of this Settlement, and no written communication or disclosure between or among the Parties,  
23 Class Counsel or Defense Counsel and other advisers, is or was intended to be, nor shall any  
24 such communication or disclosure constitute or be construed or be relied upon as, tax advice  
25 within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as  
26 amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own,  
27 independent legal and tax counsel for advice (including tax advice) in connection with this  
28

1 Settlement, (b) has not entered into this Settlement based upon the recommendation of any other  
2 party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any  
3 communication or disclosure by any attorney or advisor to any other party to avoid any tax  
4 penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any  
5 other party has imposed any limitation that protects the confidentiality of any such attorney's or  
6 adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure  
7 by the acknowledging party of the tax treatment or tax structure of any transaction, including  
8 any transaction contemplated by this Settlement.

9 3.6. Settlement Approval and Implementation Procedures. As part of this Settlement,  
10 the Parties agree to the following procedures for obtaining the Court's preliminary approval of  
11 the Settlement, certifying the Settlement Class, notifying Settlement Class Members of the  
12 Settlement, obtaining the Court's final approval of the Settlement, and processing the Individual  
13 Settlement Payments.

14 3.7. Preliminary Approval and Certification. As soon as practicable after execution of  
15 this Settlement, but no later than sixty-five days (65) days, the Parties will jointly submit this  
16 Settlement to the Court for its preliminary approval. Such submission will include this  
17 Settlement, the proposed Notice Packet, the proposed Preliminary Approval Order, and any  
18 memoranda and evidence as may be necessary for the Court to determine that this Settlement is  
19 fair, adequate, and reasonable. Plaintiff will draft the memoranda and prepare the evidence as  
20 may be necessary for Preliminary Approval. The Parties agree to request the Court to enter an  
21 order conditionally certifying the Settlement Class after the preliminary approval hearing, in  
22 accordance with California Rules of Court, Rule 3.769(c).

23 3.8. Class Information. No more than fifteen (15) calendar days after the entry of the  
24 Preliminary Approval Order, Defendant shall provide the Claims Administrator with the Class  
25 Information for purposes of mailing Notice Packets to Settlement Class Members, including: 1.  
26 Class Member's full name; 2. Class Member's last known address; 3. Class Member's last four  
27 digits of social security number; 4. Class Member's employee identification number; and based  
28

1 on Defendants' payroll records, the Class Member's total number of workweeks.—Within fifteen  
2 (15) calendar days after Preliminary Approval, Defendants shall provide the Claims  
3 Administrator with any information reasonably necessary to perform the calculation of number  
4 of workweeks for each Settlement Class Member, and any other reasonably required  
5 information the Claims Administrator requests to perform the calculations required under this  
6 Settlement.

7 3.9. Notice by First Class U.S. Mail. Upon receipt of the Class Information, the Claims  
8 Administrator will perform a search on the National Change of Address database to update the  
9 Settlement Class Members' addresses. No more than ten (10) calendar days after receiving the  
10 Class Information from Defendants, as provided herein, the Claims Administrator shall mail  
11 copies of the Notice Packet to all Settlement Class Members by regular First-Class U.S. Mail.  
12 The Claims Administrator shall exercise its best judgment to determine the current mailing  
13 address for each Settlement Class Member. The address identified by the Claims Administrator  
14 as the current mailing address shall be presumed to be the best mailing address for each  
15 Settlement Class Member. It will be conclusively presumed that if an envelope so mailed has  
16 not been returned within twenty (20) days of the mailing that the Settlement Class Member  
17 received the Notice Packet.  
18

19 3.10. Undeliverable Notices. Any Notice Packets returned to the Claims Administrator  
20 as undeliverable on or before the Response Deadline shall be re-mailed to the forwarding  
21 address affixed thereto.

22 3.11. For each Settlement Class Member whose Notice Packet is returned, there will be  
23 one (1) skip trace by the Claims Administrator. If an updated mailing address is identified, the  
24 Claims Administrator shall resend the Notice Packet to the Settlement Class Member. One (1)  
25 supplemental Notice Packet shall be mailed to each Settlement Class Member whose original  
26 Notice Packet is returned as undeliverable to the Claims Administrator. Such re-mailing shall  
27 be made within five (5) business days of the Claims Administrator receiving notice that the  
28 respective Notice Packet was undeliverable. Any requests by the Claims Administrator for

1 documents or information from Defendants must be responded to within a reasonable amount  
2 of time by counsel for Defendants. It is the intent of the Parties that reasonable means be used  
3 to locate the Settlement Class Members and apprise them of their rights.

4 3.12. Settlement Class Members to whom Notice Packets are resent after having been  
5 returned undeliverable to the Claims Administrator shall have fourteen (14) calendar days  
6 thereafter, or until the Response Deadline has expired, whichever is later, to mail the Request  
7 for Exclusion or a Notice of Objection. Notice Packets that are resent shall inform the recipient  
8 of this adjusted deadline. The date of the postmark on the return envelope shall be the exclusive  
9 means used to determine whether a Settlement Class Member has returned his or her Request  
10 for Exclusion on or before the adjusted deadline. It will be conclusively presumed that if an  
11 envelope so mailed has not been returned within twenty (20) days of the mailing, that the  
12 Settlement Class Member received the Notice Packet. If a Settlement Class Member's Notice  
13 Packet is returned to the Claims Administrator more than once as undeliverable, then an  
14 additional Notice Packet shall not be re-mailed.

15 3.13. Compliance with the procedures specified in paragraphs 3.8 through 3.12 of this  
16 Settlement shall constitute due and sufficient notice to Settlement Class Members of this  
17 Settlement and shall satisfy the requirement of due process. Nothing else shall be required of,  
18 or done by, the Parties, Class Counsel, and Defense Counsel to provide notice of the proposed  
19 Settlement.  
20

21 3.14. Disputes. Settlement Class Members will have the opportunity during the forty-  
22 five (45) day response period, should they disagree with Defendants' records regarding their  
23 workweeks worked during the Class Period, to provide documentation and/or an explanation to  
24 show contrary workweeks worked. If there is a dispute, the Claims Administrator will consult  
25 with the Parties to determine whether an adjustment is warranted. The Claims Administrator  
26 shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under  
27 the terms of this Settlement. The Claims Administrator's determination of the eligibility for and  
28 amount of any Individual Settlement Payment shall be binding upon the Settlement Class

1 Member and the Parties.

2 3.15. Exclusions (Opt-Outs). The Notice Packet shall state that Settlement Class  
3 Members who wish to exclude themselves from the Settlement as to the Class Claims must  
4 submit a Request for Exclusion by the Response Deadline. Settlement Class Members may not  
5 opt-out of the Settlement as related to the PAGA Claim. The Request for Exclusion: (1) must  
6 contain the name, address, and the last four (4) digits of the Social Security number of the  
7 Settlement Class Member requesting exclusion, (2) must state the reason for the exclusion, (3)  
8 must be signed by the Settlement Class Member; and (4) must be postmarked by the Response  
9 Deadline and returned to the Claims Administrator at the specified address. If the Request for  
10 Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for  
11 exclusion from this Settlement. The date of the postmark on the return-mailing envelope shall  
12 be the exclusive means used to determine whether a Request for Exclusion has been timely  
13 submitted. Any Settlement Class Member who requests to be excluded from the Settlement will  
14 not be entitled to any recovery under the Settlement and will not be bound by the terms of the  
15 Settlement, except as to the PAGA Claim and PAGA Allocation. Settlement Class Members  
16 who receive a Notice Packet, but fail to submit a valid and timely Request for Exclusion on or  
17 before the Response Deadline, shall be bound by all terms of the Settlement and any Final  
18 Judgment entered in this Action if the Settlement is approved by the Court. At no time shall  
19 any of the Parties or their counsel seek to solicit or otherwise encourage members of the  
20 Settlement Class to submit Requests for Exclusion from the Settlement. Class Counsel shall not  
21 represent any Settlement Class Member with respect to any such Requests for Exclusion.  
22 Settlement Class Members who submit a valid Request for Exclusion may not also submit a  
23 Notice of Objection.  
24

25 3.16. Objections. The Notice Packet shall state that Settlement Class Members who  
26 wish to object to the Settlement must not submit a Request for Exclusion and must submit a  
27 written statement of objection ("Notice of Objection") by the Response Deadline to the Claims  
28 Administrator. The Notice of Objection must be signed by the Settlement Class Member and

1 state: (1) the full name of the Settlement Class Member; (2) the dates of employment of the  
2 Settlement Class Member; (3) the last four (4) digits of the Settlement Class Member's Social  
3 Security number and/or the Employee ID number; (4) the basis for the objection; and, (5)  
4 whether the Settlement Class Member intends to appear at the Final Approval Hearing. The  
5 Notice of Objection must be postmarked by the Response Deadline and returned to the Claims  
6 Administrator at the specified address. Within five (5) days of receiving a notice of objection  
7 from a Settlement Class Member, the Claims Administrator shall forward the notice of objection  
8 to Class Counsel and Defense Counsel. The Parties will thereafter lodge the Settlement Class  
9 Member's Notice of Objection with the Court. Settlement Class Members, regardless of whether  
10 or not they submit a timely Notice of Objection, will have a right to appear at the Final Approval  
11 Hearing, with or without an attorney, in order to have their objections heard by the Court. At  
12 no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement  
13 Class Members to file or serve written objections to the Settlement or appeal from the Final  
14 Judgment. Class Counsel shall not represent any Settlement Class Members with respect to any  
15 such objections.  
16

17 3.17. Plaintiff's Participation. By executing this Settlement, Plaintiff hereby stipulates  
18 he will not object to or exclude himself from the Settlement in any way.

19 3.18. No Solicitation of Settlement Objections or Exclusions. The Parties and their  
20 counsel agree to use their best efforts to carry out the terms of this Settlement. At no time shall  
21 any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class  
22 Members to submit either written objections to the Settlement or Requests for Exclusion from  
23 the Settlement, or to appeal from the Court's Final Judgment.

24 3.19. Funding of the Gross Settlement. This is a non-reversionary Settlement in which  
25 Defendants are required to pay the entire Gross Settlement Amount. No portion of the Gross  
26 Settlement Amount will revert to Defendant. Defendants are separately and solely responsible  
27 for any Employer Taxes owed as a result of the Settlement. No payments from the Gross  
28 Settlement Amount shall be made before the Gross Settlement Amount is fully funded. No

1 release in this Settlement shall be effective until the Gross Settlement Amount is fully funded.  
2 Both Defendants are jointly and severally liable for the full funding of the Gross Settlement  
3 Amount. If Defendant defaults, Plaintiff and all Participating Class Members will be able to  
4 pursue all claims, and the Settlement becomes null and void.

5 3.20. No more than five (5) business days after the Gross Settlement Amount is fully  
6 funded, the Claims Administrator will provide the Parties with an accounting of all anticipated  
7 payments from the Gross Settlement Amount.

8 3.21. Individual Settlement Payments. Each Participating Class Member shall be  
9 eligible to receive an Individual Settlement Payment, and each Settlement Class Member shall  
10 be eligible to receive his or her share of the PAGA Allocation after payment to the LWDA  
11 ("PAGA Payment"). The Individual Settlement Payment will be determined by (1) subtracting  
12 the amount of the PAGA Allocation remaining after payment to the LWDA from the Net  
13 Settlement Amount, (2) calculating the number of workweeks worked by the Participating Class  
14 Member during the Class Period, (3) dividing the figure in subparagraph (2) herein by the total  
15 workweeks worked by all Participating Class Members during the Class Period, and (4)  
16 multiplying the figure from subparagraph (3) with the figure from subparagraph (1) herein. The  
17 PAGA Payment will be determined by dividing the PAGA Allocation after payment to the  
18 LWDA by the total number of Settlement Class Members. The Individual Settlement Payment  
19 and PAGA Payment shall be mailed by regular First-Class U.S. Mail to Participating Class  
20 Members' last known mailing address no later than fifteen (15) calendar days after the Effective  
21 Date. The Individual Settlement Payments and PAGA Payments will specifically indicate that  
22 they are void if not negotiated within one hundred eight (180) days of their issuance. The  
23 "wage" portion of each Individual Settlement Payment will be reduced by any Employee Taxes.  
24 The Claims Administrator shall issue the appropriate tax documents associated with the  
25 Individual Settlement Payments, including an IRS Form W-2 for the amounts allocated as  
26 "wages" and an IRS Form 1099 for the amounts allocated as "interest" or "penalties."  
27

28 3.22. Individual Settlement Payment Formula. After deducting the Class Counsel

1 Award and Class Counsel Costs, the LWDA PAGA Allocation, Class Representative  
2 Enhancement Awards, and Claims Administration Costs, the remaining funds (the "Net  
3 Settlement Amount"), will be distributed as follows: The Claims Administrator shall divide the  
4 Net Settlement Amount by the total number of workweeks Participating Class Members worked  
5 during the Class Period in order to determine the amount each Participating Class Member is  
6 entitled to for each workweek he or she was employed by Defendants (the "Weekly Amount").  
7 The Claims Administrator will multiply the Weekly Amount by the estimated total number of  
8 workweeks that each Participating Class Member worked during the Class Period. The product  
9 of each calculation represents the gross Individual Settlement Payment for the respective  
10 Participating Class Member. The Claims Administrator will then deduct Employee Taxes  
11 attributable to wages to arrive at the net Individual Settlement Payment for each respective Class  
12 Member.

13  
14 3.23. Defendants shall have no responsibility for deciding the validity of any Individual  
15 Settlement Payment or any other payments made pursuant to this Settlement, shall have no  
16 involvement in or responsibility for the determination or payment of Employee Taxes, and shall  
17 have no liability for any errors made with respect to such Employee Taxes.

18 3.24. Settlement Class Members are not eligible to receive any compensation other than  
19 the Individual Settlement Payment, and they may only receive an Individual Settlement Payment  
20 if they do not submit a valid and timely Request for Exclusion to opt out of the Settlement.  
21 Plaintiff, however, is also eligible to receive the Class Representative Enhancement Awards.  
22 Non-Participating Class Members are only eligible to receive their share of the PAGA Payment.

23 3.25. Any settlement checks that remain uncashed one hundred eighty (180) or more  
24 calendar days after issuance shall be voided. The Claims Administrator shall forward all voided  
25 settlement checks to the California State Controller's Office's Unclaimed Property Division.  
26 The Claims Administrator shall also compile a list of the Settlement Class Members for whom  
27 their funds were deposited with the California State Controller's Office's Unclaimed Property  
28 Division. In such event, the Participating Class Member shall nevertheless remain bound by the

1 Settlement, and the Non-Participating Class Member shall nevertheless remain bound by the  
2 Settlement as it relates to the PAGA Claim. The Parties agree that good cause exists for the  
3 Court to approve this distribution because the unclaimed funds are unclaimed wages of  
4 employees that will be held by the State of California for the benefit of these employees, who  
5 may request receipt of payment from the California State Controller's Office's Unclaimed  
6 Property Division.

7 3.26. Class Representative Enhancement Awards. Defendants agree not to oppose or  
8 object to any application or motion by Plaintiff for Class Representative Enhancement Awards,  
9 not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00), for Plaintiff David Hilario, as  
10 consideration for Plaintiff's time and effort in bringing and prosecuting this matter. The Class  
11 Representative Enhancement Award shall be paid to Plaintiff from the Gross Settlement Amount  
12 no later than fifteen (15) calendar days after the Effective Date. The Claims Administrator shall  
13 issue an IRS Form 1099 — MISC to Plaintiff for his Class Representative Enhancement Award.  
14 Plaintiff shall be solely and legally responsible for payment of all applicable taxes on his Class  
15 Representative Enhancement Award and shall hold Defendants harmless from any claim or  
16 liability for taxes, penalties, or interest arising as a result of the Class Representative  
17 Enhancement Award. The Class Representative Enhancement Award shall be in addition to  
18 Plaintiff's Individual Settlement Payment as a Participating Class Member. In the event that the  
19 Court awards lesser amounts than the Class Representative Enhancement Awards requested,  
20 then any portion of the requested amounts not awarded to Plaintiff shall be added to the Net  
21 Settlement Amount. Plaintiff shall not have the right to revoke his agreement to the Settlement  
22 on the grounds the Court did not approve any or all of his request for a Class Representative  
23 Enhancement Award.  
24

25 3.27. Class Counsel Award and Costs. Defendants agree not to oppose or object to any  
26 application or motion by Class Counsel for a Class Counsel Award not to exceed One Hundred  
27 Ninety-Two Thousand Five Hundred Dollars (\$192,500.00) and Class Counsel Costs not to  
28 exceed Twenty Thousand Dollars (\$20,000.00) from the Gross Settlement Amount. The Class

1 Counsel Award and Class Counsel Costs shall be paid from the Gross Settlement Amount no  
2 later than fifteen (15) calendar days after the Effective Date. Class Counsel shall be solely and  
3 legally responsible to pay all applicable taxes on the payments made pursuant to this paragraph.  
4 The Claims Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the  
5 payments made pursuant to this paragraph. This Settlement is not contingent upon the Court  
6 awarding Class Counsel any particular amount in attorneys' fees and costs. Any amount  
7 requested by Class Counsel for the Class Counsel Award and Class Counsel Costs and not  
8 granted by the Court shall be part of the Net Settlement Amount.

9 3.28. PAGA Allocation. Subject to Court approval, the Parties shall allocate a total of  
10 Five Thousand Dollars (\$5,000.00) from the Gross Settlement Amount for the compromise of  
11 claims for civil penalties brought under the PAGA (the "PAGA Allocation"). Per California  
12 Labor Code Section 2699(i), three thousand seven hundred fifty dollars (\$3,750.00),  
13 representing seventy five percent (75%) of the PAGA Allocation, will be paid to California's  
14 Labor Workforce Development Agency from the Gross Settlement Amount by the Claims  
15 Administrator no later than fifteen (15) calendar days after the Effective Date. The remaining  
16 One Thousand Two Hundred Fifty Dollars (\$1,250.00), representing twenty five percent (25%)  
17 of the PAGA Allocation, shall be part of the Net Settlement Amount for distribution to  
18 Settlement Class Members in accordance with the distribution formula contained in Paragraph  
19 3.20.  
20

21 3.29. Defendant's Option to Terminate Settlement. If, after the Response Deadline and  
22 before the Final Approval Hearing, five percent (5%) or more of the number of Settlement Class  
23 Members submit timely and valid Requests for Exclusion from the Settlement, Defendants shall  
24 have, in their sole discretion, the option to terminate this Settlement. Defendants shall exercise  
25 their option to terminate, if they wish, prior to the Final Approval Hearing. If Defendants decide  
26 to void the Settlement, then the Settlement and conditional class certification shall be considered  
27 void, and neither the Settlement, conditional class certification, nor any of the related  
28 negotiations or proceedings, shall be of any force or effect, and the Parties shall stand in the

1 same position, without prejudice, as if this Settlement had been neither entered into nor filed  
2 with the Court. Should Defendants void the Settlement under this paragraph, they shall be  
3 responsible for all Claims Administration Costs.

4 3.30. Claims Administration Costs. The Claims Administrator shall be paid for the costs  
5 of administration of the Settlement from the Gross Settlement Amount. Such costs of  
6 administration are not to exceed Twenty Thousand Dollars (\$20,000.00), unless the court  
7 approves a higher amount. No fewer than twenty (20) days prior to the Final Approval Hearing,  
8 the Claims Administrator shall provide the Parties with a statement detailing the costs of  
9 administration. The Claims Administrator, on Defendants' behalf, shall have the authority and  
10 obligation to make payments, credits and disbursements, including payments and credits in the  
11 manner set forth in this Settlement, to Participating Class Members, calculated in accordance  
12 with the methodology set out in this Settlement and orders of the Court. The Parties agree to  
13 cooperate in the administration of the Settlement and to make all reasonable efforts to control  
14 and minimize the costs and expenses incurred in administration of the Settlement. The Parties  
15 represent they do not have any financial interest in the Claims Administrator or otherwise have  
16 a relationship with the Claims Administrator that could create a conflict of interest. The Claims  
17 Administrator shall be responsible for: processing and mailing all court-approved payments to  
18 the Plaintiffs, Class Counsel, Settlement Class Members, and the LWDA; printing and mailing  
19 the Notice Packets to the Settlement Class Members as called for in this Settlement and ordered  
20 by the Court; receiving and reporting Notice of Objections and Requests for Exclusion  
21 submitted by Settlement Class Members; providing declaration(s) as necessary in support of  
22 preliminary and/or final approval of this Settlement; and other tasks as the Parties mutually agree  
23 or the Court orders the Claims Administrator to perform. The Claims Administrator shall keep  
24 the Parties timely apprised of the performance of all Claims Administrator responsibilities. Any  
25 legally mandated tax reports, tax forms, tax filings, or other tax documents required by  
26 administration of this Settlement shall be prepared by the Claims Administrator. Any expenses  
27 incurred in connection with such preparation shall be Claims Administration Costs. The Claims  
28

1 Administrator shall be paid the Claims Administration Costs from the Gross Settlement Amount  
2 no later than fifteen (15) calendar days after the Effective Date.

3 3.31. Final Approval Hearing. At a reasonable time following the Response Deadline,  
4 the Court shall hold the Final Approval Hearing, where objections, if any, may be heard, and  
5 the Court shall determine amounts properly payable for (i) the Class Counsel Award, (ii) the  
6 Class Counsel Costs, (iii) the Class Representative Enhancement Awards, (iv) the LWDA  
7 PAGA Allocation; and (v) the Claims Administration Costs.

8 3.32. Entry of Final Judgment. If the Court approves this Settlement at the Final  
9 Approval Hearing, the Parties shall request that the Court promptly enter the Final Judgment  
10 with the Court retaining jurisdiction over the Parties to enforce the terms of the judgment. If the  
11 Court grants final approval to the Settlement, notice of Final Approval shall be posted on the  
12 Settlement Administrator's website, at [www.phoenixclassaction.com](http://www.phoenixclassaction.com).

13 3.33. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Participating  
14 Class Members pursuant to this Settlement will not count as earnings or compensation for  
15 purposes of any benefits (e.g., pensions or retirement plans) sponsored by Defendants. It is  
16 expressly understood and agreed that the receipt of Individual Settlement Amount shall not  
17 entitle any Participating Class Member to additional compensation or benefits under any  
18 collective bargaining agreement or under any bonus, contest or other compensation or benefit  
19 plan or agreement in place during the period covered by the Settlement, nor shall it entitle any  
20 Participating Class Member to any increased pension and/or retirement, or other deferred  
21 compensation benefits. It is the intent of the Parties that Individual Settlement Amounts  
22 provided for in this Stipulation are the sole payments to be made by Defendant to Participating  
23 Class Members in connection with this Settlement, with the exception of Plaintiff, and that the  
24 Participating Class Members are not entitled to any new or additional compensation or benefits  
25 as a result of having received the Individual Settlement Awards. Furthermore, the receipt of  
26 Individual Settlement Amounts by Participating Class Members shall not, and does not, by itself  
27 establish any general, special, or joint employment relationship between and among the  
28

1 Participating Class Member(s) and Defendant.

2 3.34. Nullification of Settlement. In the event: (i) the Court does not enter the  
3 Preliminary Approval Order as specified herein; (ii) the Court does not grant final approval of  
4 the Settlement as provided herein; (iii) the Court does not enter a Final Judgment as provided  
5 herein; or (iv) the Settlement does not become final for any other reason, this Settlement shall  
6 be null and void and any order or judgment entered by the Court in furtherance of this Settlement  
7 shall be treated as void from the beginning. In such a case, the Parties and any funds to be  
8 awarded under this Settlement shall be returned to their respective statuses as of the date and  
9 time immediately prior to the execution of this Settlement, and the Parties shall proceed in all  
10 respects as if this Settlement had not been executed, except that any costs and fees already  
11 incurred by the Claims Administrator shall be paid jointly by Plaintiff and Defendant, unless  
12 Defendant opts to terminate the Settlement pursuant to Paragraph 3.29. In the event an appeal is  
13 filed from the Court's Final Judgment, or any other appellate review is sought, administration  
14 of the Settlement shall be stayed pending final resolution of the appeal or other appellate review,  
15 but any fees incurred by the Claims Administrator prior to it being notified of the filing of an  
16 appeal from the Court's Final Judgment, or any other appellate review, shall be paid to the  
17 Claims Administrator jointly by Plaintiff and Defendant within thirty (30) days of said  
18 notification.  
19

20 3.35. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning  
21 the interpretation, calculation or payment of settlement claims, or other disputes regarding  
22 compliance with this Settlement shall be resolved as follows:

23 3.35.1. If Plaintiff or Class Counsel, on behalf of Plaintiff or any Settlement Class  
24 Members, or Defendant, at any time believe that the other Party or Parties  
25 have breached or acted contrary to the Settlement, that Party shall notify  
26 the other Party or Parties in writing of the alleged violation. Upon  
27 receiving notice of the alleged violation or dispute, the responding Party  
28 shall have ten (10) days to correct the alleged violation and/or respond to

1 the initiating Party with the reasons why the Party disputes all or part of  
2 the allegation.

3 3.35.2. If the response does not address the alleged violation to the initiating  
4 Party's satisfaction, the Parties shall negotiate in good faith for up to ten  
5 (10) days to resolve their differences.

6 3.35.3. If thereafter, the Parties still cannot resolve the dispute, the Parties shall  
7 utilize the services of Steven Rottman, Esq. (Mediator) in a good-faith  
8 attempt to mediate and resolve the dispute.

9 3.35.4. If the Parties are unable to resolve their differences after twenty (20) days,  
10 either Party may file an appropriate motion for enforcement with the  
11 Court. The prevailing party shall be entitled to recover attorney fees and  
12 costs as a result of having to enforce this Agreement.

13 3.36. Exhibits and Headings. The terms of this Settlement include the terms set forth in  
14 Exhibits A and B, which are attached to this Settlement and incorporated by this reference as  
15 though fully set forth in this paragraph. Any Exhibits to this Settlement are an integral part of  
16 the Settlement. The descriptive headings of any paragraphs or sections of this Settlement are  
17 inserted for convenience of reference only and do not constitute a part of this Settlement.

18 3.37. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the  
19 Action and thereafter implement and complete the Settlement.

20 3.38. Amendment or Modification. This Settlement may be amended or modified only  
21 by a written instrument signed by all the Parties and counsel for all Parties or their successors-  
22 in-interest subject to any necessary Court approval. This Settlement Agreement may not be  
23 discharged except by performance in accordance with its terms or by a writing signed by the  
24 Parties hereto as approved by the Court. A waiver or amendment of any provision of this  
25 Settlement Agreement will not constitute a waiver of any other provision.

26 3.39. Entire Settlement. This Settlement and any attached Exhibits constitute the entire  
27 agreement among these Parties, and no oral or written representations, warranties or  
28

1 inducements have been made to any Party concerning this Settlement or its exhibits, other than  
2 the representations, warranties and covenants contained and memorialized in the Settlement and  
3 its exhibits. No other prior or contemporaneous written or oral agreements may be deemed  
4 binding on the Parties.

5 3.40. Authorization to Enter into Settlement. Counsel for all Parties warrant and  
6 represent they are expressly authorized by the Parties whom they represent to negotiate this  
7 Settlement and to take all appropriate actions required or permitted to be taken by such Parties  
8 pursuant to this Settlement to effectuate its terms, and to execute any other documents required  
9 to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each  
10 other and use their best efforts to affect the implementation of the Settlement. The person  
11 signing this Settlement on behalf of Defendant represents and warrants that he or she is  
12 authorized to sign this Settlement on behalf of Defendant. Plaintiff David Hilario represents and  
13 warrants that he is authorized to sign this Settlement and that he has not assigned any claim, or  
14 part of a claim, covered by this Settlement to a third-party.

15 3.41. Binding on Successors and Assigns. This Settlement shall be binding upon, and  
16 inure to the benefit of, the successors or assigns of the Parties hereto, ~~as previously defined.~~

17 3.42. No Prior Assignments. The Parties and their counsel represent, covenant, and  
18 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported  
19 to assign, transfer, or encumber to any person or entity any portion of any liability, claim,  
20 demand, action, cause of action or right herein released and discharged.

21 3.43. California Law Governs. All terms of this Settlement and the exhibits hereto shall  
22 be governed by and interpreted according to the laws of the State of California.

23 3.44. This Settlement is Fair, Adequate and Reasonable. The Parties believe this  
24 Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this  
25 Settlement after extensive arms-length negotiations, taking into account all relevant factors,  
26 present and potential.

27 3.45. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h)  
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1 and Code of Civil Procedure Section 664.6, the Parties agree that the Court shall retain  
2 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of  
3 this Settlement and all orders and judgments entered in connection therewith, and the Parties  
4 and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,  
5 implementing, and enforcing this Settlement and all orders and judgments entered in connection  
6 therewith.

7 3.46. Invalidity of Any Provision. Before declaring any provision of this Settlement  
8 invalid, the Court shall first attempt to construe the provision to be valid to the fullest extent  
9 possible, consistent with applicable precedents.

10 3.47. Waiver of Certain Appeals. The Parties agree to waive appeals as to their  
11 respective conduct prior to the entry of Final Judgment and to stipulate to class certification for  
12 purposes of this Settlement only. The Parties reserve the right to appeal any errors in the Final  
13 Judgment.

14 3.48. Cooperation. The Parties agree to cooperate fully with one another to accomplish  
15 and implement the terms of this Settlement. Such cooperation shall include, but not be limited  
16 to, execution of such other documents and the taking of such other action as may be reasonably  
17 necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use their  
18 best efforts, including all efforts contemplated by this Settlement and any other efforts that may  
19 become necessary by Court order, or otherwise, to effectuate this Settlement and its terms.

20 3.49. Publicity. Plaintiff and Class Counsel agree that they will not issue any press  
21 releases, initiate any contact with the press, respond to any press inquiry, or have any  
22 communication with the press about the Action and/or the fact, amount, or terms of the  
23 Settlement. However, for marketing purposes, Class Counsel may refer to the settlement amount  
24 and the nature of the case without identifying any of the Parties directly or indirectly. Before the  
25 date of the filing of the motion for preliminary approval of the Settlement, Plaintiff and Class  
26 Counsel will not initiate any contact with Settlement Class Members about the Settlement,  
27 except that: (a) Class Counsel, if contacted by a Settlement Class Member, may respond that a  
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1 settlement has been reached and that the details will be communicated in a forthcoming Court-  
2 approved notice; and (b) Plaintiff, if contacted by a Settlement Class Member, may respond only  
3 that the Settlement Class Member should contact Class Counsel. Neither Plaintiff nor Class  
4 Counsel shall hold a press conference or otherwise seek to affirmatively contact the media about  
5 the Settlement. If contacted by the media regarding the Settlement, Class Counsel shall state, "It  
6 is a fair settlement, and we are happy with the results." Additionally, no Party or their counsel  
7 shall disparage the Settlement.

8 3.50. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms  
9 and conditions of this Settlement. Accordingly, this Settlement will not be construed more  
10 strictly against one party than another merely by virtue of the fact that it may have been prepared  
11 by counsel for one of the Parties, it being recognized that, because of the arm's-length  
12 negotiations between the Parties, all Parties have contributed to the preparation of this  
13 Settlement.

14 3.51. Representation by Counsel. The Parties acknowledge that they have been  
15 represented by counsel throughout all negotiations that preceded the execution of this  
16 Settlement, and that this Settlement has been executed with the consent and advice of counsel,  
17 and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there are  
18 no liens on the Settlement Agreement.

19 3.52. All Terms Subject to Final Court Approval. All amounts and procedures described  
20 in this Stipulation are subject to final Court approval.

21 3.53. Notices. Unless otherwise specifically provided, all notices, demands or other  
22 communications in connection with this Settlement shall be: (1) in writing; (2) deemed given  
23 on the third business day after mailing; and (3) sent via United States registered or certified mail,  
24 return receipt requested, addressed as follows:  
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**To Plaintiffs:**

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PETTIT KOHN INGRASSIA LUTZ &  
DOLIN PC  
5901 W. Century Blvd., Suite 1100  
Los Angeles, CA 90045  
Telephone: (310) 649-5772  
Facsimile: (310) 649-5777

3.54. Execution by Settlement Class Members. It is agreed that it is impossible or impractical to have each Settlement Class Member execute this Settlement. The Notice of Settlement will advise all Settlement Class Members of the binding nature of the release and such shall have the same force and effect as if each Settlement Class Member executed this Settlement.

3.55. Execution by Plaintiff and Defendants. Plaintiff and Defendant, by signing this Settlement, are bound by the terms herein.

3.56. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

3.57. Counterparts. This Settlement shall become effective upon its execution by all of the undersigned. Plaintiff, Class Counsel, Defendant, and Defense Counsel may execute this Settlement in counterparts by facsimile, electronic signature, or email which shall have the same force and effect as if each had signed the same instrument. Copies of the executed Settlement shall be effective for all purposes as though the signatures contained therein were original signatures.

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3 Dated: 10/29, 2020  
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On behalf of MARSPRING CORPORATION  
dba LA FIBER

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By: \_\_\_\_\_

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9 Dated: 10/29, 2020  
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On behalf of RELIANCE UPHOLSTERY  
SUPPLY CO., INC. dba RELIANCE CARPET  
CUSHION

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13 By: \_\_\_\_\_  
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By: David Hilario \_\_\_\_\_  
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On behalf of MARSPRING CORPORATION  
dba LA FIBER

7 By: \_\_\_\_\_

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On behalf of RELIANCE UPHOLSTERY  
SUPPLY CO., INC. dba RELIANCE CARPET  
CUSHION

13 By: \_\_\_\_\_  
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DocuSigned by:  
  
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By: David Hilario