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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

STEPHEN CONTE, individually and on behalf
of others similarly situated;

Plaintiff,

v.

CLUTTER, INC., a Delaware corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. CIVDS2020287

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

Action Filed: September 22, 2020

Trial Date: Not Yet Assigned

1 This Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement
2 Agreement”) is made by and between the Plaintiffs STEPHEN CONTE, JESSICA
3 SATTERFIELD, and GABE NAPOLEON (collectively “Plaintiffs”), on their own behalf and on
4 behalf of all members of the Settlement Class, as defined below, on the one hand, and Defendant
5 CLUTTER, INC. (“Defendant”) on the other hand (Plaintiffs and Defendant collectively referred
6 to as the “Parties”), in the lawsuit entitled *Stephen Conte v. Clutter, Inc.*, filed in San Bernardino
7 County Superior Court, Case No. CIVDS2020287 (“Litigation”). This Settlement resolves all
8 claims that were asserted or could have been asserted against Defendant pertaining to the claims in
9 the Litigation.

10 **I. DEFINITIONS**

11 **A. “Administration Costs”** means all administrative costs of settlement, including
12 costs of notice to the Settlement Class, settlement administration, and any fees and costs incurred
13 or charged by the Settlement Administrator in connection with the execution of its duties under this
14 Settlement.

15 **B. “Class Counsel” or “Plaintiffs’ Counsel”** mean Edwin Aiwarzian of Lawyers for
16 Justice, PC and Heather Davis and Amir Nayebedadash of the Protection Law Group, LLC, and all
17 the lawyers of these firms acting on behalf of Plaintiffs and the Settlement Class.

18 **C. “Class Members”** means all current and former hourly-paid or non-exempt
19 employees who worked for Defendant within the State of California at any time during the
20 Settlement Period (collectively referred to as the “Class”).

21 **D. “PAGA Group Members”** means all current and former hourly-paid or non-
22 exempt employees who worked for Defendant within the State of California at any time during the
23 PAGA Period (collectively referred to as the “PAGA Members” or “PAGA Group Members”).

24 **E. “Court”** means the Superior Court of the State of California for the County of San
25 Bernardino.

26 **F. “Effective Date”** means: the later of: (a) if no timely objections are filed or if all
27 objections are withdrawn, the date upon which the Court enters Final Approval; (b) if an objection
28 is filed and not withdrawn, the date for filing an appeal and no such appeal being filed (c) if any

1 timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that
2 does not alter the terms of the settlement.

3 **H. “Final Approval Order”** as used herein mean the final formal judgment entered by
4 the Court granting final approval of this Agreement.

5 **I. “Plaintiffs”** as used herein means Stephen Conte, Jessica Satterfield, and Gabe
6 Napoleon.

7 **J. “Net Settlement Fund”** means the Settlement Amount minus any Court-approved
8 award of Attorneys’ Fees to Class Counsel, Litigation Costs to Class Counsel, Administration Costs
9 to the Settlement Administrator, Enhancement Payment to Plaintiffs, and LWDA Payment to the
10 Labor and Workforce Development Agency (“LWDA”), and as provided in Sections VIII, IX, and
11 XIV-XVII.

12 **K. “Individual Settlement Payments”** means payments made to the Participating
13 Class Members from the Net Settlement Fund as part of the Settlement.

14 **L. “Settlement”** means the disposition and agreement to resolve the Litigation.

15 **M. “Settlement Administrator”** means ILYM Group (“ILYM”), the settlement
16 administrator selected by the Parties, and which will be responsible for the administration of the
17 Settlement Amount, as defined below, and all related matters. The Parties each represent that they
18 do not have any financial interest in the Settlement Administrator or otherwise have a relationship
19 with the Settlement Administrator that could create a conflict of interest.

20 **N. “Maximum Settlement Amount”** means the sum of One Million Nine Hundred
21 Thousand Dollars (\$1,900,000.00), which shall be paid by Defendant, and from which all
22 Individual Settlement Payments, Court-approved Attorneys’ Fees and Litigation Costs pursuant to
23 Section XIV, Administration Costs pursuant to Section IX, Enhancement Payment pursuant to
24 Section XV, and PAGA Penalties pursuant to Section XVII, except as provided herein.

25 **O. “Settlement Payment”** means the payment of \$1,900,000.00 due at final approval
26 of the settlement by the Court.

27 **P. “Settlement Class Member”** means a Class Member who does not opt out of the
28 Settlement.

1 **Q. “Class Settlement Period” or “Class Period”** means the period from September
2 22, 2016 through the date of Preliminary Approval of the Settlement by the court or January 5,
3 2022, whichever is earlier.

4 **R. “PAGA Settlement Period” or “PAGA Period”** means the period from March 5,
5 2018 through the date of Preliminary Approval of the Settlement by the court or January 5, 2022,
6 whichever is earlier.

7 **S. “Workweeks”** means the number of weeks that a Class Member worked for
8 Defendant as an hourly-paid or non-exempt employee during the Settlement Period (based on the
9 number of workweeks in the Class List that Defendant provides to the Settlement Administrator).
10 Each Class Member will be credited with at least one (1) Workweek. A Workweek includes any
11 week in which a Class Member had a time worked entry in Defendant’s timekeeping system.

12 **II. BACKGROUND.**

13 **A.**On May 9, 2019, Plaintiff Satterfield filed Case No. 19SMCV00874 in Los Angeles
14 County Superior Court, which is a representative action for civil penalties pursuant to the Private
15 Attorneys General Act (the “PAGA”) against Defendant. In this PAGA action (“Satterfield PAGA
16 Action”), Plaintiff Satterfield sought civil penalties on behalf of herself and other aggrieved
17 employees for the following alleged violations of the California Labor Code: (1) California Labor
18 Code sections 510 and 1198 (failure to pay overtime); (2) California Labor Code sections 226.7
19 and 512(a) (failure to provide meal periods); (3) California Labor Code section 226.7 (failure to
20 provide rest periods); (4) California Labor Code sections 1194, 1197, and 1197.1 (failure to pay
21 minimum wages); (5) California Labor Code sections 201-203 (failure to timely pay wages upon
22 termination); (6) California Labor Code section 204 (failure to timely pay wages during
23 employment) (7) California Labor Code section 226(a) (failure to provide complete and accurate
24 wage statements); (8) California Labor Code section 1174(d) (failure to keep complete and accurate
25 payroll records); and (9) California Labor Code sections 2800 and 2802 (failure to reimburse
26 necessary business-related expenses and costs).

27 **B.**On September 22, 2020, Plaintiff Conte filed Case No. CIVDS2020287 in San
28 Bernardino County Superior Court, which is a wage and hour class action against Defendant. In

1 this class action (“Conte Class Action”), Plaintiff Conte alleges, *inter alia*, on behalf of himself and
2 all others similarly situated, that Defendant violated California state wage and hour laws, the
3 California Business and Professions Code Section 17200 *et seq.* as a result of Defendant’s
4 California wage and hour policies and practices. Specifically, Plaintiff alleged that Defendant
5 violated: (1) California Labor Code sections 510 and 1198 (unpaid overtime); (2) California Labor
6 Code sections 226.7 and 512(a) (unpaid meal period premiums); (3) California Labor Code section
7 226.7 (unpaid rest period premiums); (4) California Labor Code sections 1194, 1197, and 1197.1
8 (unpaid minimum wages); (5) California Labor Code sections 201-203 (final wages not timely
9 paid); (6) California Labor Code section 226(a) (failure to provide accurate wage statements); (7)
10 California Labor Code sections 2800 and 2802 (failure to reimburse necessary business expenses);
11 and (8) California Business & Professions Code sections 17200, *et seq.*

12 C. On January 28, 2021, Plaintiff Conte filed Case No. 21SMCV00223 in Los Angeles
13 County Superior Court, which is a representative action for civil penalties pursuant to the Private
14 Attorneys General Act (the “PAGA”) against Defendant. In this PAGA action (“Conte PAGA
15 Action”), Plaintiff Conte sought civil penalties on behalf of himself and other aggrieved employees
16 for the following alleged violations of the California Labor Code: (1) California Labor Code
17 sections 510 and 1198 (failure to pay overtime); (2) California Labor Code sections 226.7 and
18 512(a) (failure to provide meal periods); (3) California Labor Code section 226.7 (failure to provide
19 rest periods); (4) California Labor Code sections 1194, 1197, and 1197.1 (failure to pay minimum
20 wages); (5) California Labor Code sections 201-203 (failure to timely pay wages upon termination);
21 (6) California Labor Code section 204 (failure to timely pay wages during employment) (7)
22 California Labor Code section 226(a) (failure to provide complete and accurate wage statements);
23 (8) California Labor Code section 1174(d) (failure to keep complete and accurate payroll records);
24 and (9) California Labor Code sections 2800 and 2802 (failure to reimburse necessary business-
25 related expenses and costs).

26 D. On September 30, 2021, Plaintiff Napoleon sent a letter to the Labor and Workforce
27 Development Agency (“LWDA”), informing the LWDA of alleged Labor Code violations at
28 Defendant and notifying the LWDA that he intended to seek civil penalties under the PAGA against

1 Defendant. Plaintiff Napoleon’s letter to the LWDA alleged the following Labor Code violations:
2 (1) California Labor Code sections 510 and 1198 (failure to pay overtime); (2) California Labor
3 Code sections 226.7 and 512(a) (failure to provide meal periods); (3) California Labor Code section
4 226.7 (failure to provide rest periods); (4) California Labor Code sections 1194, 1197, and 1197.1
5 (failure to pay minimum wages); (5) California Labor Code sections 201-203 (failure to timely pay
6 wages upon termination); (6) California Labor Code section 204 (failure to timely pay wages during
7 employment) (7) California Labor Code section 226(a) (failure to provide complete and accurate
8 wage statements); (8) California Labor Code sections 551 and 552 (failure to provide one day’s
9 rest in a seven-day workweek); (9) California Labor Code section 1174(d) (failure to keep complete
10 and accurate payroll records); (10) California Labor Code section 1198 (failure to provide reporting
11 time pay); and (11) California Labor Code sections 2800 and 2802 (failure to reimburse necessary
12 business-related expenses and costs). On December 6, 2021, Plaintiff Napoleon filed Case No.
13 21CV003650 in the Alameda County Superior Court, which is a representative action for civil
14 penalties pursuant to the Private Attorneys General Act (the “PAGA”) against Defendant (the
15 “Napoleon PAGA Action”).

16 E. The Satterfield PAGA Action, the Conte Class Action, the Conte PAGA Action,
17 and the Napoleon PAGA Action are collectively referred to herein as “the Litigation.”

18 F. Class Counsel conducted discovery concerning the claims set forth in the Litigation,
19 such as class datapoints (including the number of putative class members, workweeks, pay periods,
20 and average hourly rate of pay). Class Counsel also received detailed samples of payroll reports
21 and timekeeping details; and other relevant documents, including but not limited to employee
22 handbooks and stand-alone policies related to the claims at issue during the Class Period.

23 G. Plaintiffs and Class Counsel have engaged in good faith, arms-length negotiations
24 with Defendant concerning possible settlement of the claims asserted in the Litigation. The Parties
25 participated in mediation before mediator Mark Rudy, Esq., on October 5, 2021. Mr. Rudy is a
26 well-respected wage-and-hour class action mediator, that resulted in settlement of the Litigation
27 memorialized in this Settlement Agreement after extensive negotiations about the terms and
28

1 conditions of the Settlement at the mediation and during the subsequent drafting of a Memorandum
2 of Understanding which was executed by both Parties in October 2021.

3 **H.** Class Counsel has conducted an investigation of the law and facts relating to the
4 claims asserted in the Litigation and has concluded, taking into account the sharply contested issues
5 involved, the defenses asserted by Defendant, the expense and time necessary to pursue the
6 Litigation through trial and any appeals, the risks and costs of further prosecution of the Litigation,
7 the risk of an adverse outcome, the uncertainties of complex litigation, and the substantial benefits
8 to be received by Plaintiffs and the members of the Class pursuant to this Agreement, that a
9 settlement with Defendant on the terms and conditions set forth herein is fair, reasonable, adequate,
10 and in the best interests of the Class. Plaintiffs, on their own behalf and on behalf of the Class,
11 have agreed to settle the Litigation with Defendant on the terms set forth herein.

12 **I.** Defendant has concluded that, because of the substantial expense of defending
13 against the Litigation, the length of time necessary to resolve the issues presented herein, the
14 inconvenience involved, and the concomitant disruption to its business operations, it is in
15 Defendant's best interest to accept the terms of this Agreement. Defendant denies each of the
16 allegations and claims asserted against it in the Litigation. However, Defendant nevertheless
17 desires to settle the Litigation for the purpose of avoiding the burden, expense and uncertainty of
18 continuing litigation and for the purpose of putting to rest the controversies engendered by the
19 Litigation.

20 **J.** This Agreement is intended to and does effectuate the full, final and complete
21 settlement of all allegations and claims that were asserted, or could have been asserted, in the
22 Litigation by Plaintiffs and members of the Class as set forth in Sections II.A-D.

23 **III. JURISDICTION**

24 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
25 Litigation includes claims that, while Defendant denies them in their entirety, would, if proven,
26 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
27 final approval of the Settlement and after the Court has ordered the entry of Judgment, pursuant to
28 California Code of Civil Procedure Section 664.6 the Court shall retain jurisdiction of this action

solely for the purpose of interpreting, implementing, and enforcing this Settlement consistent with the terms set forth herein.

IV. STIPULATION OF CLASS CERTIFICATION

The Parties stipulate to the certification of the Class for purposes of settlement only. This stipulation is contingent upon the preliminary and final approval and certification of the Class only for purposes of settlement. Should the Settlement not become final, for whatever reason, the fact that the Parties were willing to stipulate provisionally to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether a class should be certified in a non-settlement context in the Litigation. Defendant expressly reserves the right to oppose class certification and/or proactively move to deny certification should this Settlement be modified or reversed on appeal or otherwise not become final.

V. MOTION FOR PRELIMINARY APPROVAL

Plaintiffs will bring a motion before the Court for an order preliminarily approving the Settlement including the Notice of Class Action Settlement (“Notice”), which is attached hereto as “**Exhibit A**”, and including certification of the Class for settlement purposes only.

The date that the Court grants preliminary approval of this Agreement will be the “Preliminary Approval Date.” Class Counsel will be responsible for drafting all documents necessary to obtain preliminary approval of the Settlement and will provide these papers to Defendant’s counsel three (3) business days in advance of such filing. Defendant may review and suggest revisions to Plaintiffs’ Motion for Preliminary Approval, which Plaintiffs will consider. Defendant agrees that it will not oppose Plaintiffs’ Motion for Preliminary Approval, nor shall it seek to delay the hearing on this motion for more than thirty (30) days from the date obtained by Plaintiffs. This is a material term of the Settlement and any delay or opposition by Defendant will be grounds for Plaintiffs to withdraw from the Settlement.

VI. STATEMENT OF NO ADMISSION

A. Defendant denies liability to Plaintiffs and to the Class upon any claim or cause of action. This Agreement does not constitute, and is not intended to constitute, an admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against it

1 in the Litigation.

2 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor any
3 statements, discussions or communications, nor any materials prepared, exchanged, issued or used
4 during the course of the negotiations leading to this Agreement or the Settlement, is intended by
5 the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be
6 admissible in any way in this case or any other judicial, arbitral, administrative, investigative or
7 other forum or proceeding as evidence of any violation of any federal, state, or local law, statute,
8 ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The
9 Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in
10 this case or any other judicial, arbitral, administrative, investigative, or other forum or proceeding,
11 as purported evidence of any violation of any federal, state, or local law, statute, ordinance,
12 regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other
13 purpose. Notwithstanding the foregoing, this Agreement may be used and filed in any proceeding
14 before the Court that has as its purpose the interpretation, implementation, or enforcement of this
15 Agreement or any orders or judgments of the Court entered in connection with implementation of
16 the Settlement.

17 **C.** None of the documents produced or created by Plaintiffs or the Class in connection
18 with settlement procedures constitute, and they are not intended to constitute, an admission by
19 Defendant of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or
20 executive order, or any obligation or duty at law or in equity.

21 **D.** The Parties agree that class certification pursuant to California Code of Civil
22 Procedure Section 382 under the terms of this Agreement is for settlement purposes only. Nothing
23 in this Agreement will be construed as an admission or acknowledgement of any kind that any class
24 should be certified or given collective treatment in the Litigation or in any other action or
25 proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement
26 will be admissible in any court or other tribunal regarding the propriety of class certification or
27 collective treatment. In the event that this Agreement is not approved by the Court or any appellate
28 court, is terminated, or otherwise fails to be enforceable, Plaintiffs will not be deemed to have

1 waived, limited, or affected in any way any claims, rights, or remedies in the Litigation, and
2 Defendant will not be deemed to have waived, limited, or affected in any way any of its objections
3 or defenses in the Litigation.

4 **VII. WAIVER, RELEASE AND CONFIDENTIALITY**

5 **A. Release As to All Settlement Class Members.**

6 Upon the date on which the Court's Final Approval Order becomes "Final" (as that term is
7 defined in Section I(F) above), Plaintiffs and all Settlement Class Members waive, release,
8 discharge Defendant, and its divisions, affiliates, predecessors, successors, shareholders, officers,
9 directors, employees, agents, trustees, representatives, administrators, fiduciaries, assigns,
10 subrogees, executors, partners, parents, subsidiaries, joint employers, insurers, clients, customers,
11 suppliers, vendors, and related corporations ("Released Parties") of any and all wage-related claims
12 that were alleged in the Litigation or which could have been alleged in the Litigation based on the
13 facts asserted in the Litigation arising during the Settlement Period, including the following claims,
14 under any legal theory of liability, for: (1) alleged failure to pay all hours worked pursuant to
15 California Labor Code sections 200, 226, 1197, and 1198 and the IWC Wage Orders; (2) alleged
16 failure to provide meal periods pursuant to California Labor Code sections 200, 226.7 and 512 and
17 the IWC Wage Orders; (3) alleged failure to provide rest periods pursuant to California Labor Code
18 sections 200 226.7, and 512 and the IWC Wage Orders; (4) alleged failure to furnish accurate
19 itemized wages statements pursuant to California Labor Code section 226 and the IWC Wage
20 Orders; (5) alleged failure to pay all wages owed at termination pursuant to California Labor Code
21 sections 201-203 and the IWC Wage Orders; (6) alleged failure to pay all wages in a timely manner
22 during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7)
23 alleged failure to maintain adequate payroll records pursuant to California Labor Code section 1174
24 and IWC Wage Orders; (8) alleged failure to provide one day of rest in a seven day workweek
25 pursuant to California Labor Code sections 551 and 552 and the IWC Wage Orders; (9) alleged
26 failure to provide reporting time pay pursuant to California Labor Code section 1198 and IWC
27 Wage Orders; (10) alleged failure to reimburse all necessary business expenses pursuant to
28 California Labor Code sections 2802 and 2804 and the IWC Wage Orders; (11) alleged violations

1 of California Business & Professions Code sections 17200, *et seq.*; and (12) alleged violations of
2 California Labor Code section 2698-2699, *et seq.* (“Released Claims”).

3 **B. General Release by Plaintiffs Only.**

4 In addition to the release made in Section VII (A), Plaintiffs make the additional following
5 general release of all claims, known or unknown. Plaintiffs release the Released Parties from all
6 claims, demands, rights, liabilities and causes of action of every nature and description whatsoever,
7 known or unknown, asserted or that might have been asserted, whether in tort, contract, or for
8 violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection
9 with Plaintiffs’ relationship with Defendant as well as any and all acts or omissions by or on the
10 part of Defendant. (The release set forth in this Paragraph B shall be referred to hereinafter as the
11 “General Release.”)

12 With respect to the General Release, Plaintiffs stipulate and agree that, upon the date on
13 which the Court’s Final Approval Order becomes “Final”, Plaintiffs shall be deemed to have
14 expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and
15 benefits of Section 1542 of the California Civil Code, or any other similar provision under federal
16 or state law, which provides:

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

21 This release specifically excludes claims for unemployment insurance, disability, social security,
22 and workers compensation (with the exception of claims arising pursuant to California Labor Code
23 Sections 132(a) and 4553). Accordingly, if the facts relating in any manner to this Settlement are
24 found hereafter to be other than or different from the facts now believed to be true, the release of
25 claims contained herein shall be effective as to all unknown claims.

26 **VIII. SETTLEMENT PAYMENT**

27 **A. Consideration for This Agreement.**

28 As consideration for this Agreement, Defendant will make a settlement payment that totals

1 the Maximum Settlement Amount of \$1,900,000.00. The payment of the Maximum Settlement
2 Amount represents full and complete settlement of this matter. The Maximum Settlement Amount
3 includes all attorneys' fees and costs, administration costs, enhancement award to the class and
4 PAGA representatives, and payment to the California Labor and Workforce Development Agency
5 ("LWDA"). The balance after deduction of attorneys' fees and costs, administration costs, payment
6 to the LWDA, the enhancement awards, will be the Net Settlement Amount. Defendant's employer
7 taxes shall be paid separately and in addition to the Maximum Settlement Amount.

8 **B. Potential Increase to the Settlement Amount.**

9 Defendant has represented that there are no more than 70,000 workweeks from September
10 22, 2016 to October 5, 2022. In the event the number of workweeks during the Class Period (from
11 September 22, 2016 to January 6, 2022 or the date of preliminary approval, whichever is earlier) is
12 more than 77,000 (i.e., greater than 10% more than 70,000), then the Gross Settlement Amount
13 shall be increased proportionally by the workweeks in excess of 77,000, multiplied by the
14 workweek value. For example, if there were 77,000 workweeks represented to exist during the
15 Class Period, but there are actually 80,000 workweeks in the Class Period, and the actual workweek
16 value is \$27.14 per workweek, Defendant would have to increase the Maximum Settlement Amount
17 by \$81,420.00 (80,000 workweeks – 77,000 workweeks = 3,000 workweeks x \$27.14/workweek).
18 In the alternative, if the number of workweeks exceeds 77,000, Defendant may exercise the option
19 of cutting off the Class Period at the point where the workweeks equal 77,000. Defendant shall
20 confirm the number of Pay Period at issue in advance of Plaintiffs' filing the motion for approval
21 to confirm whether the number of Pay Periods increased by more than 10%.

22 **IX. SETTLEMENT ADMINISTRATOR**

23 Plaintiffs and Defendant, through their respective counsel, have selected ILYM as a
24 Settlement Administrator to administer the Settlement, which includes but is not limited to
25 distributing and responding to inquiries about the Notice, determining the validity of any disputes
26 and opt-outs, and calculating all amounts to be paid from the Net Settlement Fund. Charges and
27 expenses of the Settlement Administrator, estimated to be no more \$31,000.00, will be paid from
28 the Settlement Amount. Any charges and expenses of the Settlement Administrator greater than

1 the allocated \$31,000.00 will be paid from the Settlement Amount. If the actual Administration
2 Costs are less than the Parties' estimation, the difference between the actual and estimated
3 Administration Costs will be part of the Net Settlement Fund. The Parties agree that this Agreement
4 may be provided to the Settlement Administrator to effectuate its implementation of the settlement
5 procedures herein.

6 **X. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

7 **A. Notice.**

8 Plaintiffs and Defendant, through their respective attorneys, have jointly prepared the
9 Notice, which in substance will be provided to the Class Members as follows:

10 As soon as practicable following preliminary approval of the Settlement, but no later than
11 fourteen (14) calendar days after the Court enters the Order granting preliminary approval of the
12 Settlement, Defendant will provide to the Settlement Administrator the following information for
13 each Class Member: (1) full name; (2) last known home address; (3) last known telephone number;
14 (4) dates of employment with Defendant as an hourly-paid or non-exempt employee, as well as
15 hours worked and total workweeks for each class member; (5) total Workweeks during the Class
16 Period; (6) total Workweeks during the PAGA Period; (7) Social Security number; and (8) last
17 known email address. Defendant further agrees to consult with the Settlement Administrator prior
18 to the production date to ensure that the format will be acceptable to the Settlement Administrator.
19 Plaintiffs' Counsel shall also receive a redacted Class List that shall only disclose an identification
20 number attributed to each Class Member and their dates of employment, hours worked, and
21 associated workweeks.

22 The Settlement Administrator shall run all the addresses provided through the United States
23 Postal Service NCOA database (which provides updated addresses for any individual who has
24 moved in the previous four years who has notified the U.S. Postal Service of a forwarding address)
25 to obtain current address information, and shall mail the Notice to the Class Members via first-class
26 U.S. Mail using the most current mailing address information available, within ten (10) calendar
27 days of the receipt of the Class List from Defendant.

28 The Notice will include information regarding the nature of the Litigation; a summary of

1 the terms of the Settlement; the definition of the Class; a statement that the Court has preliminarily
2 approved the Settlement; the nature and scope of the claims being released; the procedure and time
3 period for objecting to the Settlement, the date and location of the Final Approval Hearing;
4 information regarding the opt-out procedure; the number of Workweeks credited to each Class
5 Member, and the estimated Individual Settlement Payment for the Class Member.

6 If a Notice is returned as undeliverable after the initial mailing, the Settlement Administrator
7 will perform a skip trace in an attempt to locate a more current address. If the Settlement
8 Administrator is successful in locating an updated address, it will re-mail the Notice to the Class
9 Member. Further, any Notices returned with a forwarding address to the Settlement Administrator
10 before the Response Deadline (as defined in Section X.B. below), shall be re-mailed to the
11 forwarding address affixed thereto. With respect to any Notice that is re-mailed, the Response
12 Deadline for the Class Member whose Notice is re-mailed will be extended an additional fifteen
13 (15) calendar days.

14 No later than twenty-five (25) days before the Final Approval Hearing, the Settlement
15 Administrator shall provide counsel for Defendant and Class Counsel with a declaration attesting
16 to the completion of the settlement notice administration process, including the number of attempts
17 to obtain valid mailing addresses for and re-sending of any returned Notices, as well as the number
18 of Workweeks Disputes, Requests for Exclusion, and objections received.

19 **B. Objections.**

20 Any Class Member making an objection must not submit a Request to be Excluded (i.e.,
21 must not opt out). To object to the Settlement, a Settlement Class Member may send a written
22 objection to the Settlement Administrator or appear at the Final Approval Hearing with or without
23 submitting a written objection to the Settlement. The Settlement Class Member may appear
24 personally or through an attorney, at his or her own expense, at the Final Approval Hearing to
25 present his or her objection directly to the Court. However, any attorney who will represent an
26 individual objecting to this Settlement must file a notice of appearance with the Court and serve
27 Class Counsel and Defendant's Counsel no later than sixty (60) calendar days after the Notice was
28 initially mailed to the Class Members ("Response Deadline"). A written objection to the Settlement

1 must: (1) contain the case name and number of the Litigation; (2) contain the Settlement Class
2 Member's name, address, telephone number, signature, and last four digits of his or her Social
3 Security number; (3) clearly state the grounds for the objection; (4) state whether the Settlement
4 Class Member intends to appear at the Final Approval Hearing; and (5) be mailed to the Settlement
5 Administrator, postmarked no later than the Response Deadline. If a Class Member objects to the
6 Settlement, the Class Member will remain a Settlement Class Member and if the Court approves
7 this Agreement, the Settlement Class Member will be bound by the terms of the Settlement and
8 Final Approval Order in the same way and to the same extent as a Settlement Class Member who
9 does not object to the Settlement. The date of mailing of the Notice to the objecting Settlement
10 Class Member shall be conclusively determined according to the records of the Settlement
11 Administrator. The Court retains final authority with respect to the consideration and admissibility
12 of any objections to the Settlement from Settlement Class Members.

13 **C. Opportunity to Be Excluded and Defendant's Opt-Out Threshold.**

14 In order for any Class Member to validly exclude himself or himself from the Settlement
15 (i.e., to validly opt out), a written request for exclusion from the Settlement ("Request to be
16 Excluded") must: (1) contain the case name and number of the Litigation; (2) contain the Class
17 Member's full name, address, telephone number, and last four digits of his or her Social Security
18 number; (3) be signed by the Class Member or his or her authorized representative; (4) contain a
19 clear statement that the Class Member requests to be excluded from the Settlement; and (5) be sent
20 to the Settlement Administrator, postmarked by no later than the Response Deadline. The Notice
21 shall contain instructions on how to opt out.

22 The date of the initial mailing of the Notice, and the date the signed Request to be Excluded
23 was postmarked, shall be conclusively determined according to the records of the Settlement
24 Administrator. Any Class Member who timely and validly submits a Request to be Excluded will
25 not be entitled to an Individual Settlement Payment, will not be bound by the terms and conditions
26 of the Settlement, and will not have any right to object, appeal, or comment thereon.

27 Any Class Member who does not timely submit a Request to be Excluded to the Settlement
28 Administrator will be deemed included in the Settlement in accordance with this Settlement. All

1 PAGA Group Members, the LWDA, and State of California shall release claims arising under
2 PAGA for the PAGA Period. All PAGA Group Members shall release claims arising under PAGA
3 regardless of their decision to participate in the class settlement.

4 In the event that five percent (5%) or more of the Class Members exercise their right to
5 exclude themselves and opt out of the Settlement, Defendant retains the exclusive right, but not the
6 obligation, to withdraw from and terminate the Settlement and return all parties back to their same
7 position before the Settlement was reached and the Settlement Agreement was entered into. In the
8 event that Defendant exercises such rights under this paragraph, Plaintiffs and Defendant shall
9 resume the Litigation through and until there is a final resolution of the Litigation. Defendant must
10 notify Class Counsel and the Court in writing of such a decision to withdraw and terminate the
11 Settlement no later than five (5) days prior to the date of the Final Approval Hearing. In the event
12 of Defendant's withdrawal, no party may use the fact that the Parties agreed to the Settlement for
13 any reason, and Defendant shall pay all administration expenses incurred through the date of its
14 termination of the Settlement.

15 **D. Cooperation.**

16 The Parties and their respective counsel agree not to encourage members of the Class to
17 refrain from participating in the Settlement, to opt out of the Settlement, or to object to the
18 Settlement, directly or indirectly, through any means. However, if a Class Member contacts Class
19 Counsel, Class Counsel may discuss the terms of the Settlement and the Class Member's options
20 with respect to the Settlement.

21 **XI. DISPUTES PROCEDURE**

22 If a Class Member disputes his or her number of Workweeks set forth in the Notice, such
23 Class Member must submit a written Workweeks dispute ("Workweeks Dispute") that: (a) contains
24 the case name and number of the Litigation; (b) contains the Class Member's full name, address,
25 telephone number, signature, and last four digits of his or her Social Security number; (c) contains
26 a statement setting forth the number of Workweeks that such Class Member believes is correct and
27 attaches any relevant documentation in support thereof; and (d) is submitted to the Settlement
28 Administrator by mail, postmarked no later than the Response Deadline. If a Class Member does

1 not dispute his or her number of Workweeks, the number of Workweeks set forth in the Notice will
2 govern the Individual Settlement Payment to the Class Member and such Class Member need not
3 take further action to participate in the Settlement.

4 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation
5 with Class Counsel and counsel for Defendant, will review the pertinent records showing the dates
6 the Class Member worked for Defendant in California and the number of weeks worked, which
7 records Defendant agrees to make available to the Settlement Administrator and Class Counsel.

8 After consulting with Class Counsel and counsel for Defendant, the Settlement
9 Administrator shall compute the number of Workweeks to be used in computing the Class
10 Member's *pro rata* share of the Net Settlement Fund. In the event that there is a disparity between
11 the number of Workweeks a Class Member claims he or she worked during the Settlement Period
12 and the number of Workweeks indicated by Defendant's records, Defendant's records will control
13 unless inconsistent with records provided by the Class Member (or bona fide copies thereof), in
14 which case the records provided by the Class Member will control. The Settlement Administrator's
15 decision as to the total number of Workweeks shall be final and non-appealable. The Settlement
16 Administrator shall send written notice of the decision on any such dispute to the Class Member,
17 to Class Counsel, and counsel for Defendant within ten (10) calendar days of receipt of the
18 Workweeks Dispute.

19 Should any Class Member timely submit a timely Workweeks Dispute with a deficiency,
20 the Settlement Administrator shall, within five (5) calendar days of receipt, send a deficiency
21 notice. The deficiency notice will provide the Class Member the later of the Response Deadline or
22 fourteen (14) calendar days from the mailing of the deficiency notice to postmark a written response
23 to cure all deficiencies. The failure of a Class Member to timely respond to a notice of deficiency
24 shall invalidate the dispute unless all Parties' counsel agree to allow the dispute.

25 **XII. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

26 **A. Distribution Formula.**

27 Settlement Class Members (i.e., Class Members who do not opt out of the Settlement) will
28 receive a lump sum payment as good and valuable consideration for the waiver and release of

Released Claims set forth in Section VII(A), above, in an amount determined by the Settlement Administrator in accordance with the provisions of this Agreement.

Each Settlement Class Member's Individual Settlement Payment will be determined as follows:

1. Defendant will calculate the total number of Workweeks of each Settlement Class Member during the Settlement Period.
2. The value of each Workweek shall be determined by the Settlement Administrator by dividing the Net Settlement Fund by the total number of Workweeks of all Settlement Class Members ("Workweek Point Value").
3. Each Settlement Class Member's Workweeks will be multiplied by the Workweek Point Value to derive his or her Individual Settlement Payment. Individual Settlement Payments for each Settlement Class Member will be reduced by any required legal deductions for the employee's share of taxes and withholdings on the wages portion of the Individual Settlement Payments.

B. Funding of Settlement.

Within twenty-one (21) calendar days following the Effective Date, Defendant will deposit the Settlement Payment equal to the Maximum Settlement Amount into an interest-bearing account established by the Settlement Administrator. At no time prior to the Effective Date shall Defendant be required to escrow any portion of the Settlement Amount. Defendant shall not be required to deposit any portion of the Settlement Amount prior to the second quarter of 2022.

C. Time for Distribution.

The Settlement Administrator shall cause the Settlement Amount (inclusive of the Net Settlement Fund, the Court-approved Attorney's Fees and Litigation Costs to Class Counsel, Court-approved Enhancement Payment to Plaintiffs, Court-approved Administration Costs to the Settlement Administrator, and the LWDA Payment, and the PAGA Payment to PAGA Group Members) to be distributed within ten (10) calendar days following the payment as detailed in Section VIII(B) of the Agreement.

If an Individual Settlement Payment check is returned to the Settlement Administrator as

undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace search and, if another address is identified, shall mail the check to the newly identified address.

Any checks issues by the Settlement Administrator to Settlement Class Members and PAGA Group Members will be negotiable for at least one hundred eighty (180) calendar days. If a Settlement Class Member or PAGA Group Member does not cash his or her settlement check within 180 days, the uncashed funds, subject to Court approval, shall be distributed to Legal Aid at Work, pursuant to California Civil Procedure Code § 384. The Individual Settlement Payment provided to Settlement Class Members and PAGA Group Members shall prominently state the expiration date or contain a statement that the settlement check will expire in one hundred eighty (180) days, or alternatively, such a statement may be made in a letter accompanying the Individual Settlement Payment. Expired Individual Settlement Payments will not be reissued, except for good cause and as mutually agreed by the Parties in writing. The Parties agree no unclaimed funds will result from the Settlement.

The Parties each represent that they do not have any financial interest in Legal Aid at Work or otherwise have a relationship with Legal Aid at Work that could create a conflict of interest.

XIII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN

The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant, policies or bonus programs. Any payments made under the terms of this Settlement shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendant's benefit plan, policy or bonus program. Defendant retains the right to modify the language of its benefit plan, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual, or

any other purpose, and that additional contributions or benefits are not required by this Settlement.

XIV. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS

Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of 35% of the Settlement Amount (i.e., \$665,000) for all past and future attorneys' fees necessary to prosecute, settle and administer the Litigation and this Settlement ("Attorneys' Fees"). Additionally, Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$35,000.00, which represents all past and future litigation costs and expenses necessary to prosecute, settle and administer the Litigation and this Settlement ("Litigation Costs"). Any Attorneys' Fees or Litigation Costs awarded to Class Counsel by the Court as part of the Settlement shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Fund. The "future" aspect of these amounts includes, without limitation, all time and expenses expended by Class Counsel in defending the Settlement and securing preliminary and final approval (including any appeals therein). There will be no additional charge of any kind to either the members of the Class or request for additional consideration from Defendant for such work. The Attorneys' Fees and Litigation Costs shall include all attorneys' fees, litigation costs, and expenses for which Plaintiffs and Class Counsel could claim under any legal theory whatsoever with respect to the Litigation. Within ten (10) calendar days following the Effective Date, the Settlement Administrator shall disburse payment to Class Counsel from the Settlement Amount for the Court-approved Attorneys' Fees and Litigation Costs. Should the Court approve a lesser percentage or amount of Attorneys' Fees and/or Litigation Costs than the amount that Class Counsel ultimately seeks, then any such unapproved portion or portions shall be part of the Net Settlement Fund to be distributed to Settlement Class Members on a *pro rata* basis.

XV. ENHANCEMENT PAYMENT TO PLAINTIFFS

Defendant shall not oppose an application by Plaintiffs, and Plaintiffs Satterfield and Conte shall not seek or receive an amount in excess of \$7,500.00 for their participation in and assistance with the Litigation, and Plaintiff Napoleon shall not seek or receive an amount in excess of \$5,000.00 for his participation in and assistance with the Litigation ("Enhancement Payments").

Any Enhancement Payments awarded to Plaintiffs by the Court as part of the Settlement shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Fund and shall be reported on IRS Form 1099. If the Court approves an Enhancement Payment of less than \$7,500.00 to Plaintiffs Conte and Satterfield, and \$5,000.00 to Plaintiff Napoleon, then the unapproved portion or portions shall be part of the Net Settlement Fund to be distributed to Settlement Class Members on a *pro rata* basis.

XVI. TAXATION AND ALLOCATION

The Parties agree that all employment taxes and other legally required withholdings will be withheld from payments to the Settlement Class Members and Plaintiffs based on the Parties stipulated allocation of the Net Settlement Fund as provided for in this Section.

In Defendant's sole discretion, and to which Plaintiffs and Class Counsel do not object, the amount of federal income tax withholding will be based upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholdings will also be made pursuant to applicable state and/or local withholding codes or regulations.

For withholding tax characterization purposes and payment of taxes, the Individual Settlement Payments to Settlement Class Members shall be deemed and are as twenty percent (20%) wages and eighty percent (80%) penalties and interest.

Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement, by the Settlement Administrator. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

Finally, the employer's share of payroll taxes and contributions on the wages portion of Individual Settlement Payments will be paid by Defendant in addition to and not as a deduction from the Settlement Amount.

XVII. PAGA ALLOCATION

1 In order to implement the terms of this Settlement and to settle claims alleged under the
2 Private Attorneys General Act, California Labor Code section 2698 *et seq.*, the Parties agree to
3 allocate \$100,000.00 from the Settlement Amount as penalties authorized by the PAGA (“PAGA
4 Penalties”). Seventy-five percent (75%), which is \$75,000.00 of the PAGA Penalties will be
5 distributed to the Labor and Workforce Development Agency (“LWDA Payment”) and twenty-five
6 25%, which is \$25,000.00, of the PAGA Penalties will be distributed on pro-rata basis to the
7 Settlement Class Members who worked during the PAGA period (“PAGA Payment to PAGA
8 Group Members”). Within ten (10) calendar days following the payment funding the Settlement,
9 the Settlement Administrator shall disburse the LWDA Payment to the LWDA, and Plaintiffs’
10 Counsel will provide notice to the LWDA of the fact that the Settlement has been approved by the
11 Court along with a copy of the Final Approval Order through the appropriate LWDA/DIR website.

12 PAGA Group Members shall receive their portion of the PAGA Payment regardless of their
13 decision to opt-out of the class settlement.

14 **XVIII. COURT APPROVAL**

15 This Agreement and the Settlement is contingent upon final approval by the Court and entry
16 of judgment. Plaintiffs and Defendant agree to take all steps as may be reasonably necessary to
17 secure both preliminary approval and final approval of the Settlement, to the extent not inconsistent
18 with the terms of this Agreement and will not take any action adverse to each other in obtaining
19 approval by the Court, and, if necessary, appellate approval, of the Settlement in all respects.
20 Plaintiffs and Defendant expressly agree that they will not file any objection to the terms of the
21 Settlement or assist or encourage any person or entity to file any such objection.

22 In the event it becomes impossible to secure approval of the Settlement, the Parties shall be
23 restored to their respective positions in the Litigation, as of the date on which the Settlement was
24 reached, except as otherwise provided in Section XIX, below.

25 **XIX. MISCELLANEOUS PROVISIONS**

26 **A. Interim Stay of Litigation.**

27
28

1 Plaintiffs and Defendant agree to the stay of all proceedings in the Litigation, including with
2 respect to California Code of Civil Procedure section 583.310, except such proceedings necessary
3 to implement and complete the Settlement, pending Final Approval of the Settlement by the Court.

4 **B. Interpretation of the Agreement.**

5 This Agreement constitutes the entire agreement between Plaintiffs and Defendant. Except
6 as expressly provided herein, this Agreement has not been executed in reliance upon any other
7 written or oral representations or terms, and no such extrinsic oral or written representations or
8 terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree
9 that this Agreement is to be construed according to its terms and may not be varied or contradicted
10 by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State
11 of California, both in its procedural and substantive aspects, without regard to its conflict of laws
12 provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will
13 be resolved solely and exclusively in the Superior Court of the State of California for the County
14 of San Bernardino, and Plaintiffs and Defendant hereby consent to the personal jurisdiction of the
15 Court over them solely in connection therewith. Plaintiffs, on their own behalf and on behalf of
16 the Class, and Defendant participated in the negotiation and drafting of this Agreement and had
17 available to them the advice and assistance of independent counsel. As such, neither Plaintiffs nor
18 Defendant may claim that any ambiguity in this Agreement should be construed against the other.

19 The terms and conditions of this Agreement constitute the exclusive and final understanding
20 and expression of all agreements between Plaintiffs and Defendant with respect to the Settlement.

21 **C. Further Cooperation.**

22 Plaintiffs and Defendant and their respective attorneys shall proceed diligently to prepare
23 and execute all documents, to seek the necessary approvals from the Court, and to do all things
24 reasonably necessary or convenient to consummate the Agreement as expeditiously as possible.

25 **D. Confidentiality of Documents.**

26 After the expiration of any appeals period, Plaintiffs, the Settlement Administrator, and
27 Class Counsel shall maintain the confidentiality of all documents, deposition transcripts,
28

1 declarations and other information obtained in the Litigation, unless necessary for appeal or such
2 documents are ordered to be disclosed by the Court or by a subpoena.

3 **E. Neutral Employment Reference.**

4 Defendant agrees that it will adopt a neutral reporting policy regarding any future
5 employment references related to Plaintiffs. In the event that any potential or future employers of
6 Plaintiffs request a reference regarding Defendant's employment of Plaintiff Conte, Satterfield, or
7 Napoleon, Defendant shall only provide the requested Plaintiffs' dates of employment and job titles
8 during employment. Defendant shall not refer to the Action or this Settlement.

9 **F. Counterparts.**

10 The Agreement may be executed in one or more actual or non-original counterparts, all of
11 which will be considered one and the same instrument and all of which will be considered duplicate
12 originals.

13 **G. Authority.**

14 Each individual signing below warrants that he or she has the authority to execute this
15 Agreement on behalf of the party for whom or which that individual signs.

16 **H. No Third-Party Beneficiaries.**

17 Plaintiffs, Settlement Class Members, and Defendant are direct beneficiaries of this
18 Agreement, but there are no third-party beneficiaries.

19 **I. Modification.**

20 This Agreement may not be changed, altered, or modified, except in a writing signed by the
21 counsel for the Parties, and approved by the Court. Notwithstanding the forgoing, the Parties agree
22 that any dates contained in this Agreement may be modified by agreement of counsel for the Parties
23 in writing without approval by the Court if the Parties agree and cause exists for such modification.
24 This Agreement may not be discharged except by performance in accordance with its terms or by
25 a writing signed by the Parties.

26 **J. Deadlines Falling on Weekends or Holidays.**

27 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
28 legal holiday, that deadline shall be continued until the following business day.

1 **K. California Law Governs**

2 All terms of this Settlement Agreement and Exhibits hereto will be governed and interpreted
3 according to the laws of the State of California.

4 **L. Severability.**

5 In the event that any one or more of the provisions contained in this Agreement shall for
6 any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
7 unenforceability shall in no way effect any other provision if Defendant's Counsel and Class
8 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as
9 if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

10 **M. Consolidation of Claims.**

11 Plaintiffs agree to file a consolidated Complaint in the Conte Class Action. Plaintiffs will
12 dismiss the claims in the Satterfield PAGA Action, the Conte PAGA Action, and the Napoleon
13 PAGA Action without prejudice. Plaintiffs will file an amended complaint prior to filing a motion
14 for preliminary approval of the Settlement in the Conte Class Action that will add the PAGA claims
15 asserted in the Satterfield PAGA Action, the Conte PAGA Action, and the Napoleon PAGA Action.
16 As part of the amended complaint in the Conte Class Action, Plaintiffs will add Jessica Satterfield
17 and Gabe Napoleon as class representatives in the Conte Class Action.

18 **N. Binding on Successors and Assigns.**

19 This Settlement Agreement will be binding upon, and inure to the benefit of, the successors
20 or assigns of the Parties hereto, as previously defined.

21 **O. Waiver.**

22 No waiver of any condition or covenant contained in this Settlement Agreement or failure
23 to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute
24 a further waiver by such party of the same or any other condition, covenant, right or remedy.

25 **P. Enforcement Action.**

26 In the event that one or more of the Parties institutes any legal action or other proceeding
27 against any other Party or Parties to enforce the provisions of this Settlement or to declare rights
28 and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover

1 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
2 fees incurred in connection with any enforcement actions.

3 **Q. Mutual Preparation.**

4 The Parties have had a full opportunity to negotiate the terms and conditions of this
5 Agreement. Accordingly, this Agreement will not be construed more strictly against one Party than
6 another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties,
7 it being recognized that, because of the arms-length negotiations between the Parties, all Parties
8 have contributed to the preparation of this Settlement Agreement.

9 **R. Representation by Counsel.**

10 The Parties acknowledge that they have been represented by counsel throughout all
11 negotiations that preceded the execution of this Agreement, and that this Agreement has been
12 executed with the consent and advice of counsel and reviewed in full. Further, Plaintiffs and Class
13 Counsel warrant and represent that there are no liens on the Agreement.

14 **S. Binding Agreement.**

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

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21 Date: ^{12/30/21}_____, 2021

JESSICA SATTERFIELD, on behalf of herself
and all others similarly situated

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24 Electronically Signed _____ 2021-12-31 03:19:41 UTC - 174.193.202.208
AssureSign® *Jessica Satterfield* d2068775-bf84-4da7-951b-ae0d017c243b

25 JESSICA SATTERFIELD, Plaintiff

26 Date: _____, 2021

27 STEPHEN CONTE, on behalf of himself and all
28 others similarly situated

1 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
2 fees incurred in connection with any enforcement actions.

3 **Q. Mutual Preparation.**

4 The Parties have had a full opportunity to negotiate the terms and conditions of this
5 Agreement. Accordingly, this Agreement will not be construed more strictly against one Party than
6 another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties,
7 it being recognized that, because of the arms-length negotiations between the Parties, all Parties
8 have contributed to the preparation of this Settlement Agreement.

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10 The Parties acknowledge that they have been represented by counsel throughout all
11 negotiations that preceded the execution of this Agreement, and that this Agreement has been
12 executed with the consent and advice of counsel and reviewed in full. Further, Plaintiffs and Class
13 Counsel warrant and represent that there are no liens on the Agreement.

14 **S. Binding Agreement.**

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

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22 Date: _____, 2021

JESSICA SATTERFIELD, on behalf of herself
and all others similarly situated

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25 _____
JESSICA SATTERFIELD, *Plaintiff*

26 Date: 12/30/2021, 2021

27 STEPHEN CONTE, on behalf of himself and all
28 others similarly situated

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Stephen Conte

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STEPHEN CONTE, *Plaintiff*

Date: _____, 2021

GABE NAPOLEON, on behalf of himself and
all others similarly situated

GABE NAPOLEON, *Plaintiff*

Date: _____, 2021

CLUTTER, INC., *Defendant*

Name: _____

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STEPHEN CONTE, *Plaintiff*

Date: 12/30/2021, 2021

GABE NAPOLEON, on behalf of himself and
all others similarly situated

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GABE NAPOLEON, *Plaintiff*

Date: _____, 2021

CLUTTER, INC., *Defendant*

Name: _____

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STEPHEN CONTE, *Plaintiff*

Date: _____, 2021

GABE NAPOLEON, on behalf of himself and
all others similarly situated

GABE NAPOLEON, *Plaintiff*

Date: 12/29/2021, 2021

CLUTTER, INC., *Defendant*

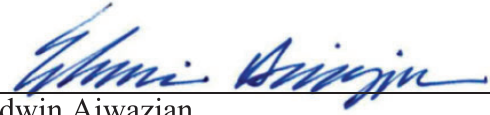
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Name: Erin Coleman
Position: HR Manager

1 APPROVED AS TO FORM:

2 Date: 01/03/2022, 2021-

LAWYERS *for* JUSTICE, PC

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Edwin Aiwanian
Attorneys for Plaintiffs and Proposed Class
Counsel

7 Date: _____, 2021

PROTECTION LAW GROUP, LLP

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Heather Davis
Amir Nayebdadash
Attorneys for Plaintiffs and Proposed Class
Counsel

13 Date: _____, 2021

MEDINA McKELVEY LLP

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Brandon R. McKelvey
Timothy B. Nelson
Douglas R. Leach
Attorneys for Clutter, Inc.

1 APPROVED AS TO FORM:

2 Date: _____, 2021

LAWYERS *for* JUSTICE, PC

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Edwin Aiwazian
Attorneys for Plaintiffs and Proposed Class
Counsel

Date: December 30, 2021

PROTECTION LAW GROUP, LLP


Heather Davis
Amir Nayebdadash
Attorneys for Plaintiffs and Proposed Class
Counsel

Date: December 29, 2021

MEDINA McKELVEY LLP


Brandon R. McKelvey
Timothy B. Nelson
Douglas R. Leach
Attorneys for Clutter, Inc.