

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made by and between plaintiffs Angel Zamora, Gabriel Loaiza, Jorge Guillen, Ladell Taylor, Mark Luna, and Phil Poston (collectively, “Plaintiffs”) and defendants Penske Truck Leasing Co., L.P. (“PTL”) and Penske Logistics LLC (“PL”) (collectively, “Defendants”). Plaintiffs and Defendants collectively are referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

1. “Actions” collectively means the following complaints that were filed in California state court and any amendments thereto, which are captioned as: (1) *Angel Zamora, et al. v. Penske Truck Leasing Co, L.P.*, Case No. 2:20-cv-02503 ODW(MRWx), pending in United States District Court, Central District of California; (2) *Angel Zamora, et al. v. Penske Truck Leasing Co, L.P.*, Case No. 20STCV46359, pending in the Superior Court of the State of California, County of Los Angeles; (3) *Ladell Taylor, et al. v. Penske Logistics LLC*, Case No. 5:20-cv-02623-ODW (MRWx), pending in the United States District Court, Central District of California; (4) *Ladell Taylor, et al v. Penske Logistics LLC*, Case No. CIVSB2029173, pending in the Superior Court of the State of California, County of San Bernardino; (5) *Mark Luna v. Penske Logistics LLC*, Case No. 2:21-cv-00081-TLN-JDP, pending in the United States District Court, Eastern District of California; (6) *Mark Luna v. Penske Logistics LLC*, Case No. 34-2021-00292756, pending in the Superior Court of the State of California, County of Sacramento; (7) *Phil Poston v. Penske Logistics LLC*, Case No. 21STCV07387 filed in the Superior Court of the State of California, County of Los Angeles, removed to the United States District Court, Central District of California, Case No. 2:21-cv-03939; and (8) *Phil Poston v. Penske Logistics, LLC*, Case No. 21CMCV00142, pending in the Superior Court of the State of California, County of Los Angeles.
2. “Aggrieved Employees” means (i) all individuals who were employed by Penske Logistics LLC in California as non-exempt employees at any time during the period October 28, 2019 to April 6, 2022 (the “PL Aggrieved Employees”), and (ii) all individuals who were employed by Penske Truck Leasing Co., L.P. in California as non-exempt employees at any time during the period September 25, 2018 to April 6, 2022 (the “PTL Aggrieved Employees”).
3. “Class” means all individuals who are or previously were employed by Defendant Penske Logistics LLC and/or Defendant Penske Truck Leasing Co., L.P. in California who were classified as non-exempt employees during the Class Period.
4. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Jeffrey S. Herman and Christine T. LeVu of Blumenthal Nordrehaug Bhowmik De Blouw LLP (BNBD); Graham S.P. Hollis, Vilmarie Cordero, Hali M. Anderson and Monique R. Rodriguez of GrahamHollis, APC (GH); and

Edwin Aiwarzian, Arby Aiwarzian, and Joanna Ghosh of Lawyer *for* Justice, PC (LFJ).

5. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Actions, including their pre-filing investigation, their filing of the Actions, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Actions.
6. “Class Data” means for each Class Member, his or her full name; last-known mailing address; Social Security number; his or her employee identification number; his or her email address (if known and available to Defendants); his or her dates of employment, and data allowing the Settlement Administrator to calculate the number of weeks in which he or she actually performed any work during the Class Period and PAGA Period.
7. “Class Member” is any individual that falls within the definition of the “Class.”.
8. “Class Notice” means the Notice of Proposed Settlement of Class Action and Hearing Date for Final Court Approval substantively in the form attached hereto as Exhibit A to this Agreement and incorporated by reference into this Agreement.
9. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Settlement Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator) along with a Spanish translation of the Class Notice.
10. “Class Period” means the period of time from January 31, 2016 through and including April 6, 2022.
11. “Class Representative Service Payment” means the service payment made to each of the Plaintiffs in their capacity as Class Representatives in order to compensate them for initiating the Actions, performing work in support of the Actions, undertaking the risk of liability for Defendants’ expenses in the event Plaintiffs were unsuccessful in the prosecution of the Actions, and for the general release of all claims by the Plaintiffs.
12. “Court” means the Superior Court of California, County of San Bernardino.
13. “Defendants” means Penske Truck Leasing Co., L.P. and Penske Logistics LLC, collectively.
14. “Defendants’ Counsel” means Evan R. Moses, Noel M. Hicks, and Justin Dean of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
15. “Effective Date” means the date by which all of the following have occurred:

1. This Agreement is approved by the Court; and
2. The Judgment becomes Final as defined in Section I.17. of this Agreement.
16. “Election Not to Participate in Settlement” means the written request by a Class Member to exclude himself or herself from the Settlement submitted in accordance with the instructions in the Class Notice.
17. “Final” means the last of the following dates, as applicable:
 1. If no objection to the Settlement is made, the date the Judgment is entered.
 2. If an objection to the Settlement is made and Judgment is entered, but no appeal is filed, the last date on which a notice of appeal from the Judgment may be filed and none is filed.
 3. If Judgment is entered and a timely appeal from the Judgment is filed, the date the Judgment is affirmed and is no longer subject to appeal.
18. “Final Approval Hearing” means the hearing to be conducted by the Court to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
19. “Gross Settlement Amount” means One Million Four Hundred Fifty-Five Thousand Dollars and Zero Cents (\$1,455,000.00), exclusive of the employer’s share of payroll taxes to be paid by Defendants as provided by this Agreement. This Gross Settlement Amount is an all-in amount without any reversion to Defendants and shall be inclusive of all payments of Settlement Shares to the Participating Class Members, Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Payment, but excluding any employer payroll taxes, if any, due on the portion of the Settlement Shares allocated to wages, which shall not be paid from the Gross Settlement Amount and shall be the separate additional obligation of Defendants. The Gross Settlement Amount shall be paid without the need to submit a claim form.
20. “Judgment” means the Final Approval Order and Judgment entered by the Court substantially in the forms attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
21. “McDowell Action” means the lawsuit entitled *Eric McDowell et al. v. Penske Truck Leasing Co., L.P.*, Case No. CIVDS2012273, pending in the Superior Court of the State of California, County of San Bernardino.
22. “Net Settlement Amount” means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payments, the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Payment, and the Settlement Administration Expenses.

23. “Non-Participating Class Member” means a Class Member who submits a valid and timely Election Not to Participate in Settlement.
24. “PAGA” means the California Private Attorneys General Act of 2004, which is codified in California Labor Code §§ 2698 *et seq.*
25. “PAGA Period” means the period of time period from October 28, 2019 to April 6, 2022 for the PL Aggrieved Employees and September 25, 2018 to April 6, 2022 for the PTL Aggrieved Employees.
26. “Participating Class Member” means a Class Member who does not submit a valid and timely Election Not to Participate in Settlement.
27. “Preliminary Approval of the Settlement” means the Court’s Order Granting Preliminary Approval of the Settlement substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
28. “Released Parties” collectively mean: Defendants, and Defendants’ respective past, present and/or future parents, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, benefit plans and joint venturers.
29. “Settlement” means the disposition of the Actions and all related claims effectuated by this Agreement.
30. “Settlement Administrator” means the third party settlement administrator proposed by the Plaintiffs, as approved by the Court.
31. “Settlement Share” means each Participating Class Member’s share of the Net Settlement Amount as provided by this Agreement.

II. RECITALS

Zamora Class Action

30. On January 21, 2020, Plaintiffs Zamora, Loaiza and Guillen (“Zamora Plaintiffs”) filed a class action Complaint against PTL in the Superior Court of the State of California, County of Los Angeles (the “Zamora Class Action”). The Zamora Plaintiffs asserted claims that PTL:
 - a. Violated California Business and Professions Code (“Business and Professions Code”) § 17200 *et seq.*;
 - b. Failed to pay overtime wages in violation of California Labor Code (“Labor Code”) § 510, *et seq.*;
 - c. Failure to pay minimum wages in violation of Labor Code §§ 1194, 1197, 1197.1;

- d. Failed to provide required meal periods in violation of Labor Code §§ 226.7 & 512 and the applicable Industrial Welfare Commission (“IWC”) Wage Order;
 - e. Failed to provide required rest periods in violation of Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - f. Failed to provide accurate itemized wage statements in violation of Labor Code § 226;
 - g. Failed to reimburse employees for required expenses in violation of Labor Code § 2802; and,
 - h. Failed to provide wages when due in violation of Labor Code §§ 201, 202 and 203.
- 31. On March 3, 2020, PTL removed the *Zamora* Class Action to the United States District Court, Central District of California.
 - 32. On March 23, 2020, PTL filed a motion to dismiss the *Zamora* Class Action Complaint.
 - 33. On April 30, 2020, the *Zamora* Plaintiffs filed a motion to remand the *Zamora* Class Action to state court.
 - 34. On August 17, 2020, the United States District Court, Central District of California denied the *Zamora* Plaintiffs’ motion to remand to state court and granted PTL’s motion to dismiss, with leave to amend.
 - 35. On August 28, 2020, the *Zamora* Plaintiffs filed a First Amended Class Action Complaint against PTL that contained the same causes of action, but included additional factual allegations as requested by the United States District Court, Central District of California.
 - 36. On September 11, 2020, PTL filed a motion to dismiss and motion to strike portions of the First Amended Class Action Complaint in the *Zamora* Class Action.
 - 37. On March 3, 2021, the United States District Court, Central District of California granted PTL’s motion to dismiss and motion to strike, with leave to amend.
 - 38. On March 21, 2021, the *Zamora* Plaintiffs filed a Second Amended Class Action Complaint against PTL that narrowed the scope of the allegations to address the concerns raised by the United States District Court, Central District of California.
 - 39. On April 7, 2021, PTL filed an answer to the Second Amended Class Action Complaint.

Zamora PAGA Action

40. On November 30, 2020, the *Zamora* Plaintiffs filed a separate representative PAGA Complaint against PTL in the Superior Court of the State of California, County of Los Angeles, on behalf of the State of California as private attorneys general (the “*Zamora* PAGA Action”). The *Zamora* PAGA Action asserted one cause of action for civil penalties pursuant to PAGA for violations of Labor Code §§ 201, 202, 203, 204, 206.5, 210, 226(a), 226.7, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802.
41. On February 10, 2021, PTL filed a demurrer to the PAGA Complaint in the *Zamora* PAGA Action, or in the alternative, motion to stay the *Zamora* PAGA Action pending the resolution of the *Zamora* Class Action.
42. On June 16, 2021, the Superior Court of the State of California, County of Los Angeles overruled PTL’s demurrer to the PAGA Complaint in the *Zamora* PAGA Action and denied PTL’s motion to stay the *Zamora* PAGA Action.

Taylor Class Action

43. On October 16, 2020, Plaintiff Taylor filed a class action Complaint against Defendants PL and PTL in the Superior Court of the State of California, County of San Bernardino (the “*Taylor* Class Action”). Plaintiff Taylor asserted claims that Defendants:
 - a. Failed to provide legally compliant meal periods or proper compensation in lieu thereof in violation of Labor Code §§ 204 226.7 & 512;
 - b. Failed to provide legally compliant rest periods or proper compensation in lieu thereof in violation of Labor Code §§ 204 and 226.7;
 - c. Failed to timely pay minimum, regular, and/or overtime wages in violation of Labor Code §§ 204, 210, 510, 558, 1194, 1194.2, 1197, 1197.1, and 1199;
 - d. Failed to timely pay all wages due and owed upon separation of employment in violation of Labor Code §§ 201-203, and 210;
 - e. Failed to furnish accurate itemized wage statements in violation of Labor Code §§ 226, 1174, and 1174.5; and
 - f. Violated California’s Unfair Competition Law (Bus. & Prof. Code §§ 17200, *et seq.*)
44. On December 18, 2020, Defendants removed the *Taylor* Class Action to United States District Court, Central District of California.
45. On February 2, 2021, Defendants and Plaintiff Taylor filed a stipulation for leave for Plaintiff Taylor to file a First Amended Complaint, which was granted by the United States District Court, Central District of California on February 4, 2021.

46. On February 9, 2021, Plaintiff Taylor filed a First Amended Complaint, removing Plaintiff Taylor's claims for failure to provide legally compliant meal periods and failure to provide legally compliant rest periods and dismissing PTL as named defendant.
47. On March 11, 2021, Defendants filed a motion to dismiss Plaintiff Taylor's First Amended Complaint.
48. On March 25, 2021, PL and Plaintiff Taylor filed a stipulation for leave for Plaintiff Taylor to file a Second Amended Complaint.
49. On March 26, 2021, the United States District Court, Central District of California, granted the stipulation for leave for Plaintiff Taylor to file a Second Amended Complaint, and denied as moot Defendants' motion to dismiss Plaintiff Taylor's First Amended Complaint.
50. On March 30, 2021, Plaintiff Taylor filed a Second Amended Complaint that removed Plaintiff Taylor's claim for violations of California's Unfair Competition Law.
51. On April 23, 2021, Defendants filed a motion to dismiss Plaintiff Taylor's Second Amended Complaint.
52. On September 20, 2021, the United States District Court, Central District of California granted, in part, and denied, in part, Defendants' motion to dismiss Plaintiff Taylor's Second Amended Complaint, with leave for Plaintiff Taylor to file a Third Amended Complaint.
53. On October 8, 2021, Plaintiff Taylor filed a Third Amended Complaint against PL, alleging class claims of: (1) Failure to furnish accurate itemized wages statements in violation of Labor Code § 226, and (2) Failure to maintain accurate records in violation of Labor Code § 226; and an individual claim for failure to timely pay all wages due and owing upon separation in violation of Labor Code §§ 200-204 and 210.
54. On October 22, 2021, Defendants filed an answer to Plaintiff Taylor's Third Amended Complaint.

Taylor PAGA Action

55. On December 28, 2020, Plaintiff Taylor filed a separate PAGA Complaint against Defendants in the Superior Court of the State of California, County of San Bernardino, on behalf of the State of California as a private attorneys general (the "*Taylor PAGA Action*"). Plaintiff Taylor sought civil penalties pursuant to PAGA for Labor Code violations for: (1) Failure to provide legally compliant meal periods or proper compensation in lieu thereof in violation of Labor Code §§ 204, 226.7, 512, 1198 and the "Meal Periods" section of IWC Wage Order 9-2001; (2) Failure to provide legally compliant rest periods or proper compensation in lieu thereof in violation of Labor Code §§ 204, 226.7 and 1198 and the "Rest Periods" section of IWC Wage Order 9-2001; (3) Failure to timely pay minimum, regular,

and/or overtime wages in violation of Labor Code §§ 204, 510, 1194, 1197, and 1199 and the “Minimum Wages” and “Hours and Days of Work” sections of IWC Wage Order 9-2001; (4) Failure to timely pay all wages due and owed upon separation of employment in violation of Labor Code §§ 201-203; (5) Failure to furnish accurate itemized wage statements in violation of Labor Code § 226 and the “Records” section of IWC Wage Order 9-2001; (6) Failure to maintain accurate record in violation of Labor Code §§ 226 and 1174 and the “Records” section of IWC Wage Order 9-2001; and (7) Retaliation against employees who make good faith complaints about unpaid wages in violation of Labor Code §§ 98.6, 1102.5 and 6310.

56. On May 12, 2021, Plaintiff Taylor filed a First Amended Representative Action Complaint, which dismissed PTL as a named defendant and removed the PAGA claims for unlawful meal and rest periods.
57. On June 11, 2021, PL filed a Demurrer to the First Amended Representative Action Complaint in the *Taylor* PAGA Action, or in the alternative, a motion to stay the *Taylor* PAGA Action pending resolution of the *Taylor* Class Action.
58. On September 9, 2021, Superior Court of the State of California, County of San Bernardino overruled PL’s Demurrer to Plaintiff Taylor’s First Amended Representative Action Complaint, and denied PL’s Motion to Stay the *Taylor* PAGA Action pending resolution of the *Taylor* Class Action.
59. On October 1, 2021, PL filed an answer to Plaintiff Taylor’s First Amended Complaint.

Luna Class Action

60. On November 12, 2020, Plaintiff Luna filed a Class Action Complaint against PL in the Superior Court of the State of California, County of Sacramento (the “*Luna* Class Action”). Plaintiff Luna asserted claims that PL:
 - a. Violated Business and Professions Code § 17200 *et seq.*;
 - b. Failed to pay overtime wages in violation of Labor Code § 510, *et seq.*;
 - c. Failure to pay minimum wages in violation of Labor Code §§ 1194, 1197, 1197.1;
 - d. Failed to provide required meal periods in violation of Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - e. Failed to provide required rest periods in violation of Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - f. Failed to provide accurate itemized wage statements in violation of Labor Code § 226;

- g. Failed to reimburse employees for required expenses in violation of Labor Code § 2802;
 - h. Failed to provide wages when due in violation of Labor Code §§ 201, 202 and 203; and
 - i. Wrongfully terminated Plaintiff Luna in violation of public policy.
- 61. On January 15, 2021, PL removed the *Luna* Class Action to the United States District Court, Eastern District of California.
 - 62. On February 12, 2021, Plaintiff Luna filed a motion to remand the *Luna* Class Action to State Court.
 - 63. On April 1, 2021, PL filed a motion for judgment on the pleadings in the *Luna* Class Action.
 - 64. On April 20, 2021, PL filed a motion to transfer the *Luna* Class Action to the United States District Court, Central District of California.
 - 65. As of the date this Agreement was drafted, Plaintiff Luna's motion to remand, PL's motion for judgment on the pleadings, and PL's motion to transfer, are all pending without any order issued.

Luna PAGA Action

- 66. On January 20, 2021, Plaintiff Luna filed a separate PAGA Complaint in the Superior Court of the State of California, County of Sacramento, on behalf of the State of California as a private attorney general (the "*Luna* PAGA Action"). Plaintiff Luna asserted one cause of action for civil penalties pursuant to PAGA for violations of Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B).
- 67. On April 2, 2021, PL filed a demurrer to the PAGA Complaint in the *Luna* PAGA Action, or in the alternative, motion to stay the *Luna* PAGA Action pending the resolution of the *Luna* Class Action.
- 68. On June 16, 2021, the Superior Court of the State of California, County of Sacramento overruled PL's demurrer to the PAGA Complaint in the *Luna* PAGA Action, but granted PL's motion to stay the *Luna* PAGA Action pending the resolution of the *Luna* Class Action.

Poston Class Action

- 69. On February 25, 2021, Plaintiff Poston filed a class action Complaint against Defendants PL and PTL in the Superior Court of the State of California, County of Los Angeles, Case No. 21STCV07387 (the "*Poston* Class Action"). Plaintiff Poston asserted claims that Defendants:

- a. Failed to pay overtime wages in violation of California Labor Code §§ 510 and 1198;
 - b. Failed to provide required meal periods and pay proper meal period premiums in violation of California Labor Code §§ 226.7 & 512;
 - c. Failed to provide required rest periods and pay proper rest period premiums in violation of California Labor Code §§ 226.7;
 - d. Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 and 1197.1;
 - e. Failed to pay wages when due upon termination of employment in violation of California Labor Code §§ 201 and 202;
 - f. Failed to timely pay wages when due during employment in violation of California Labor Code § 204;
 - g. Failed to provide accurate itemized wage statements in violation of California Labor Code § 226(a);
 - h. Failed to keep requisite payroll records in violation of California Labor Code § 1174(d);
 - i. Failed to reimburse employees for required expenses in violation of California Labor Code §§ 2800 and 2802; and
 - j. As a result of the above-described violations of California law, engaged in unfair business practices in violation of California Business & Professions Code §§ 17200, et seq.
70. On May 10, 2021 Defendants filed an answer to Plaintiff Poston's Class Action Complaint.
71. On May 10, 2021, the *Poston* Class Action was removed to the United States District Court, Central District of California, Case No. 2:21-cv-03939.

Poston PAGA Action

72. On June 7, 2021, Plaintiff Poston filed a Complaint for Enforcement Under The Private Attorneys General Act, California Labor Code § 2698, Et Seq. against Defendants PL and PTL in the Superior Court of the State of California, County of Los Angeles, Case No. 21CMCV00142, on behalf of the State of California, as a private attorney general (the "*Poston* PAGA Action"). Plaintiff Poston sought civil penalties under PAGA for violations of Labor Code §§ 201, 202, 204, 210, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

73. On August 18, 2021, Defendants filed a demurrer to the PAGA Complaint in the *Poston* PAGA Action, or in the alternative, motion to stay the *Poston* PAGA Action pending the resolution of the *Poston* Class Action.
74. On September 30, 2021, the Superior Court of the State of California, County of Los Angeles sustained Defendants' demurrer to the PAGA Complaint in the *Poston* PAGA Action.

Global Mediation of the Eight (8) Actions

75. On November 10, 2021, the Parties participated in an all-day mediation presided over by Louis Marlin, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Actions, which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.
76. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Actions have merit or that Defendants bear any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendants' defenses in the Actions have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Actions.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. SETTLEMENT TERMS AND CONDITIONS

77. **Consolidation and Settlement Approval.** To effectuate the Settlement efficiently and before a single Court, the Parties have agreed, subject to Court approval: (1) to file, for settlement purposes only, a Second Amended Consolidated Complaint in the *McDowell* Action which will incorporate all of the claims and Parties in the Actions under a single master caption; (2) to stay all of the Actions pending the Court's decision to grant or not grant final approval of the Settlement; (3) to seek approval of this Settlement jointly with the *McDowell* Action before the Court; (4) in the event the Settlement is approved, to dismiss the Actions; (4) in the event the Settlement not approved or the Judgment is not entered, the stay of the Actions will be lifted; and (5) in the event the Settlement is not approved or the Judgment is not entered, the Actions will then proceed in the same courts and venues, in the same positions, and based on the same claims and statutes of limitations as they existed immediately prior to the date of mediation (November 10, 2021). The Parties further agree that, provided the approval of the Settlement proceeds jointly with the *McDowell* Action in the Court and is granted preliminary and final approval, they will not oppose or object

to the settlement negotiated in the *McDowell* Action nor the application for attorneys' fees and costs to be made by the attorneys in the *McDowell* Action.

78. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendants will pay under this Settlement is One Million Four Hundred Fifty-Five Thousand Dollars (\$1,455,000). This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages which shall be separately paid by Defendants to the Settlement Administrator. All of the Gross Settlement Amount will be disbursed pursuant to this Agreement without the need to submit a claim form and none of the Gross Settlement Amount will revert to Defendants.

- a. The Gross Settlement Amount is separate and distinct from the One Million Dollar (\$1,000,000) settlement separately negotiated in the *McDowell* Action.

79. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:

- a. **To Plaintiffs:** In addition to the Settlement Shares to be paid to Plaintiffs, and the individual settlements to Plaintiff Zamora, Plaintiff Taylor and Plaintiff Luna addressed in ¶ 80 below, Plaintiffs will apply to the Court for an award of not more than \$10,000 each as Class Representative Service Payments, which is a combined total of \$60,000 in Class Representative Service Payments. Defendants will not oppose Class Representative Service Payments of no more than \$10,000 for each of the Plaintiffs. The Settlement Administrator will pay the Class Representative Service Payments approved by the Court out of the Gross Settlement Amount. If the Court approves Class Representative Service Payments of less than \$10,000 for any or all of the Plaintiffs, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members and shall not be grounds to void or invalidate this Agreement. Payroll tax withholding and deductions will not be taken from the Class Representative Service Payments and instead a Form 1099 will be issued to each of the Plaintiffs with respect to the payments, and Plaintiffs will assume full responsibility and liability for the taxes due on their Class Representative Service Payments.

- b. **To Class Counsel:** Class Counsel will apply to the Court for an award of not more than One-Third of the Gross Settlement Amount, which is presently \$485,000, as their Class Counsel Fees Payment and an amount not more than \$70,000.00 for all expenses incurred as documented in Class Counsel's billing records as their Class Counsel Litigation Expenses Payment. Defendants will not oppose their request for a Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment consistent with this Agreement and approved by the Court. The Settlement

Administrator will pay the amounts approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment of less than these amounts, which are presently \$485,000, and \$70,000.00 respectively, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. The Settlement Administrator will issue Forms 1099 to Class Counsel for the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. The payment of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment shall be made to Class Counsel. The Class Counsel Fees Payment will be split 45% to BNBD; 45% to GH; and, 10% to LFJ. The Class Counsel Litigation Expenses Payment shall be allocated based upon the expenses incurred by each law firm. Any amount not approved by the Court shall become part of the Net Settlement Amount for distribution to the Class Members and shall not be grounds to void or invalidate this Agreement.

- c. **The PAGA Payment.** The Parties will seek approval from the Court for the PAGA Payment of \$30,000 out of the Gross Settlement Amount, which shall be allocated 75% (\$22,500) to the California Labor and Workforce Development Agency (“LWDA”) as the LWDA’s share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$7,500) will be distributed to the Aggrieved Employees based on their respective pay periods worked during the PAGA Period. If the Court approves a PAGA Payment of less than \$30,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members and shall not be grounds to void or invalidate the Agreement. All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement. One hundred percent (100%) of the PAGA Payment is in settlement of claims for penalties and not be subject to wage withholdings, and shall be reported on IRS Form 1099, unless not required by law.
- d. **To the Settlement Administrator.** The Settlement Administrator will pay out of the Gross Settlement Amount to itself its reasonable fees and expenses that are documented and approved by the Court in an amount not to exceed \$30,000.00 (“Settlement Administration Expenses”). To the extent the Settlement Administration Expenses that are documented and approved by the Court are less than \$30,000.00, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members and shall not be grounds to void or invalidate the Agreement.

- 80. **Payments From the Net Settlement Amount.** The Net Settlement Amount shall include the following payments after the deductions have been made from the Gross Settlement Amount as described in this Agreement. The Net Settlement Amount shall include the following:

- a. **Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member. The submission of a claim form is not required to be paid.
- b. **Calculation.** Each Participating Class Member will be entitled, provisionally, to a share or shares of the Net Settlement Amount. The Settlement Share for each Participating Class Member will be calculated as follows: (i) Defendants shall provide the Settlement Administrator with the Class Data; (ii) the Settlement Administrator shall then divide the Net Settlement Amount by the total number of weeks in which the Class Members actually performed any work during the Class Period to determine a dollar amount per week (“Weekly Rate”); and (iii) the Settlement Administrator shall then take the number of weeks actually worked by each Participating Class Member, as reflected in the Class Data, and multiply it by the Weekly Rate to calculate their Settlement Share.
- c. **Withholding.**
 - i. Subject to approval by the Court, Twenty Percent (20%) of each Participating Class Member’s Settlement Share is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2 and shall be paid for from the Gross Settlement Amount. The Settlement Administrator shall be responsible for remitting to the tax authorities employees’ and employer’s share of all payroll taxes on the Wage Portion.
 - ii. Subject to approval by the Court, Eighty Percent (80%) of each Participating Class Member’s Settlement Share is in settlement of claims for interest and claims for penalties allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099, unless not required by law.
- d. **Effect of Non-Participating Class Members.** Non-Participating Class Members will receive no Settlement Share, and their Election Not to Participate in Settlement will reduce neither the Gross Settlement Amount nor the Net Settlement Amount. Their respective Settlement Shares will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis relative to their Settlement Shares.
- e. **Class Size Modification.** Defendants estimate that between 1/31/16 and 11/10/21 (the “Data Period”), the Class Members worked 609,051 work weeks (the “Extrapolated Value”). If, during the settlement administration process, it is determined that during the Data Period the actual number of weeks worked by the Class Members is more than 669,956 (i.e., more than

10% greater than the Extrapolated Value), the Gross Settlement Amount shall be increased by the percentage that the actual number of workweeks for the Data Period exceeds 669,956. For example, if the actual number of weeks exceeds the Extrapolated Value by 11 %, the Maximum Settlement Amount shall be increased by 1 %.

81. **Appointment of Settlement Administrator.** Plaintiffs shall be exclusively responsible for selecting the Settlement Administrator in the best interest of the Class. Defendants and Defendants' counsel shall not enter into any contractual relationship with the Settlement Administrator, and shall not bear any responsibility for errors or omissions in the calculation or distribution of the settlement payments or development of the list of recipients of settlement payments. After obtaining competing quotes from potential settlement administrators, Plaintiffs in these Actions and the *McDowell* Action have mutually agreed to ask the Court to appoint Simpluris, Inc. as the qualified administrator, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number to receive calls from Class Members; receiving and reviewing for validity completed Elections Not to Participate in Settlement; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of completed Elections Not to Participate in Settlement; calculating Settlement Shares; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The administration of this Settlement shall take place jointly with the administration of the settlement of the *McDowell* Action, and there shall only be one notice mailing sent out to Class Members with respect to the Actions and the settlement of the *McDowell* Action. The Settlement Administration Expenses are being allocated between the Actions and the *McDowell* Action pro-rata based upon relative amount of the Gross Settlement Amount of each settlement. The Settlement Administrator will have the authority to resolve all disputes concerning the calculation of a Participating Class Member's Settlement Share, subject to the dollar limitations and calculations set forth in this Agreement. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator's responsibilities. Defendants and Defendants' Counsel shall have no responsibility for validating or ensuring the accuracy of the Settlement Administrator's work. Plaintiffs, Class Counsel, Defendants and Defendants' Counsel shall not bear any responsibility for errors or omissions in the calculation or distribution of the Settlement Shares or any other distribution of monies contemplated by this Agreement. The Settlement Administration Expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Gross Settlement Amount.

The Settlement Administrator shall have its own Employer Identification Number under Internal Revenue Service Form W-9 and shall use its own Employer Identification Number in calculating payroll withholdings for taxes and shall transmit the required employers' and employees' share of the withholdings to the appropriate state and federal tax authorities. The Settlement Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

82. **Procedure for Approving Settlement.**

a. **Consolidation of Actions**

- i. The Parties will stipulate to consolidate the Actions with the *McDowell* Action, for settlement purposes only. The Parties to these Actions and the parties to the *McDowell* Action will seek consolidation through the filing of a Second Amended Consolidated Complaint in the *McDowell* Action, for settlement purposes only, in Department S-26 of the Superior Court for the State of California, County of San Bernardino, where the *McDowell* Action is currently pending.
- ii. This Settlement will be submitted for approval jointly before the Court along with the already existing settlement of the *McDowell* Action.
- iii. The Parties in the Actions agree that if settlement approval of a joint settlement of the Actions and the *McDowell* Action is not granted, the Actions and the *McDowell* Action will proceed in the same courts and venues, in the same positions, and based on the same claims and statutes of limitations, as they existed immediately prior to November 10, 2021.

b. **Withdrawal of Plaintiffs' Appeal**

- i. On August 19, 2021, Plaintiffs filed a Motion for Leave to Intervene and Leave to file a Complaint in Intervention, which was denied on September 16, 2021, by the Superior Court for the State of California, County of San Bernardino.
- ii. On October 7, 2021, Plaintiffs filed a Notice of Appeal regarding the Order dated September 16, 2021 that denied Plaintiffs' motion to intervene.
- iii. As part of this Settlement, Plaintiffs will withdraw their Appeal of the Order dated September 16, 2021 that denied Plaintiffs' Motion to Intervene upon the Parties' execution of this Agreement. In the event the Settlement is not approved, Plaintiffs may re-file their Appeal of the Order dated September 16, 2021 that denied Plaintiffs' Motion to Intervene.

c. **Motion for Preliminary Approval of Settlement by the Court.**

- i. After Execution of this Settlement Agreement, Plaintiffs will file a Joint Motion with the parties in the *McDowell* Action in the Court for an order granting Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice (the “Motion for Preliminary Approval”). Any disagreement among the Parties concerning the Class Notice, the proposed orders, or other documents necessary to implement the Settlement will be referred to the mediator for resolution.
- ii. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit an Order Granting Preliminary Approval of the Settlement substantially in the form evidenced by Exhibit B to this Agreement and incorporated by reference into this Agreement.
- iii. Should the Court decline to preliminarily approve material aspects of the Settlement (including but not limited to the scope of release to be granted by Participating Class Members or the binding effect of the Settlement on Participating Class Members), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court’s approval.

d. **Notice to Class Members.** After the Court enters an Order Granting Preliminary Approval of the Settlement, every Class Member will be sent the Class Notice Packet (which will include the Class Notice completed to reflect the Order Granting Preliminary Approval of the Settlement and showing the Class Member’s Settlement Share) as follows:

- i. No later than fourteen (14) calendar days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendants will provide to the Settlement Administrator an electronic database containing each Class Member’s Class Data. If any or all of the Class Data is unavailable to Defendants, Defendants will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Data prior to when it must be submitted to the Settlement Administrator. This information will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, in order to carry out the reasonable efforts described in section III(81), or pursuant to Defendants’ express written authorization or by order of the Court. All Class Data will be used for settlement notification and settlement administration and shall not be used for any other purpose by Class Counsel. This provision shall not be construed to impede Class Counsel’s ability to discharge their fiduciary duties to the Class, and if additional disclosures are necessary, Class Counsel will

obtain written authorization of Defendants and/or an order from the Court.

- ii. The Settlement Administrator shall update the Class Data using the National Change of Address database and an Accurint search (or substantially similar in-depth skip trace) prior to mailing the Class Notice Packets. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Settlement Administrator will mail the Class Notice Packets to all Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendants, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement. The Class Notice, and any email containing the Class Notice, shall include a Spanish translation. The envelope of the Class Notice Packet shall include an advisory about the content in both English and Spanish.
- iii. If a Class Notice Packet is returned because of an incorrect address, the Settlement Administrator will promptly re-mail the Class Notice Packet to the Class Member no later than seven (7) business days after the receipt of the undelivered Class Notice. The Settlement Administrator will also email a copy of the re-mailed Class Notice to the Class Member if there is an available email address in the Class Data. The Settlement Administrator will use the Class Data and otherwise work with Defendants to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders, and fee, as agreed to with Class Counsel and according to the following deadlines, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address using available email addresses, phone numbers, social security numbers, credit reports, LinkedIn, and Facebook; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the response date for written objections, disputes and opt-outs will be extended an additional fifteen (15) calendar days, this extended response date will be set forth in the re-mailed Class Notice, and the Settlement Administrator will note for its own records and notify Class Counsel and Defendants' Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties.
- iv. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendants' Counsel of the number of Elections Not to Participate in Settlement it receives (including

the numbers of valid and deficient Elections), number of objections received, and disputes to workweeks.

- v. Not later than ten (10) days before the date by which the Plaintiffs file the motion for final approval of the Settlement, the Settlement Administrator will provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the Elections Not to Participate in Settlement it received (including the numbers of valid and deficient Elections), objections received, and disputes to workweeks. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

- e. **Objections to Settlement; Disputes as to Workweeks allocated to Class Members; Elections Not to Participate in Settlement.** Participating Class Members may submit objections to the Settlement and/or objections to the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payments. Class Members may also submit disputes as to workweeks allocated to them and Elections Not to Participate in Settlement pursuant to the following procedures:

- i. **Objections to Settlement.** The Class Notice will provide that only Participating Class Members who wish to object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payments may object to the proposed Settlement, either in writing or orally at the Final Approval Hearing. Objections in writing must be submitted to the Settlement Administrator, postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets. Written objections must set forth the grounds for the objection(s) and comply with the instructions in the Class Notice; however a written objection shall not be invalid simply because it does not contain all of the information requested. If a Class Notice Packet is re-mailed, the response date for written objections will be extended an additional fifteen (15) calendar days. In lieu of or in addition to objecting in writing, Class Members shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) to orally object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payments. Non-Participating Class Members shall have no ability to comment on or object to the Settlement.
- ii. **Disputes as to Workweeks.** Each Class Member shall also have forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets in which to dispute the dates of

employment the Class Notice allocates to them during the Class Period. Any notice of dispute shall be directed to the Settlement Administrator. Any dispute as to this allocation shall be resolved by the Settlement Administrator, with input and assistance from Defendants' Counsel, where applicable. If a Class Notice Packet is re-mailed, the response date for disputes will be extended an additional fifteen (15) days.

- iii. **Election Not to Participate in Settlement.** The Class Notice also will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets, a signed Election Not to Participate in Settlement. If a Class Notice Packet is re-mailed, the response date for opt-outs will be extended an additional fifteen (15) calendar days. To be valid, an Election Not to Participate in Settlement must be timely and should comply with the instructions in the Class Notice; however an Election Not to Participate in Settlement shall not be invalid simply because it does not contain all of the information requested. If a question is raised about the authenticity of a signed Election Not to Participate in Settlement, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member will not participate in or be bound by the Settlement and the Judgment, except that an Aggrieved Employee will still be paid their allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of their request for exclusion. Defendants will remain free to contest any claim brought by any Class Member that would have been barred by this Agreement, and nothing in this Agreement will constitute or be construed as a waiver of any defense Defendants have or could assert against such a claim. A Class Member who does not complete and mail a timely Election Not to Participate in Settlement in the manner and by the deadline specified above and in the Class Notice will automatically become a Participating Class Member and will be bound by all terms and conditions of the Settlement, including the Released Class Claims by the Class, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement. Persons who submit an Election Not to Participate in Settlement shall not be permitted to file objections to the Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement.

All Participating Class Members who do not submit a valid and timely Election Not to Participate in Settlement will receive a Settlement Share, without the need to file a claim form, and will be bound by all of the terms of the Settlement, including without

limitation, the release of the Released Class Claims by the Participating Class Members set forth in this Agreement.

- iv. **Report.** Not later than ten (10) calendar days after the deadline for submission of Elections Not to Participate in Settlement, the Settlement Administrator will provide Class Counsel and Defendants' Counsel with a complete and accurate list of all Participating Class Members and all Non-Participating Class Members.
- f. **Right of Defendants to Reject Settlement.** If the number of Class Members who timely submit valid Elections Not to Participate in Settlement exceeds five percent (5%) of the Class, Defendants, at their sole discretion, shall have the right but not the obligation to revoke the Settlement. Defendants shall exercise its revocation rights, if at all, within fourteen (14) days of the deadline for submission of Elections Not to Participate in Settlement by providing written notice to Class Counsel. If Defendants exercise their revocation rights, the Parties will have no further obligations under the Settlement, including any obligation by Defendants to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Agreement, except that Settlement Administration Expenses as of the date that Defendants exercise the right to void the Settlement pursuant to this Paragraph will be paid by Defendants. Furthermore, the Parties agree that if Defendants exercise their right of revocation, the Actions and the *McDowell* Action will proceed in the same courts and venues, in the same positions, and based on the same claims and statutes of limitations, as they existed immediately prior to November 10, 2021.
- g. **No Solicitation.** The Parties and their respective counsel represent that neither the Parties nor their respective counsel have or will solicit any Class Member to object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement.
- h. **Additional Briefing and Final Approval.**
 - i. Unless otherwise ordered by the Court, Class Counsel will file with the Court their motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments no later than the date Plaintiffs file the Motion for Final Approval, and the application will be scheduled to be heard by the Court at the Final Approval Hearing.
 - ii. Not later than sixteen (16) court days before the Final Approval Hearing, the Plaintiffs will file with the Court a motion for final approval of the Settlement, the PAGA Payment, and payment of the Settlement Administration Expenses.

- iii. If any opposition is filed to the motion for final approval and/or the motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Payment, then not later than five (5) court days before the Final Approval Hearing, both Parties may file a reply in support of the motion for final approval, and Plaintiffs and Class Counsel may also file a reply in support of their motion for the Class Representative Service Payment, the Class Counsel Fees Payments, and the Class Counsel Litigation Expenses Payment.
- iv. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), then the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval. However, an award by the Court of a lesser amount than that sought by Plaintiffs and Class Counsel for the PAGA Payment, Class Representative Service Payments, the Class Counsel Fees Payment, or the Class Counsel Litigation Expenses Payment, will not constitute a material modification to the Settlement within the meaning of this paragraph.
- v. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, the Parties will present for the Court's approval and entry the Judgment substantially in the form attached hereto as Exhibit C. After entry of the Judgment, the Court will have continuing jurisdiction over the Actions and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.
- i. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, Plaintiffs and Participating Class Members who did not timely submit an objection to the Settlement, Defendants, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment becomes Final.

- j. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), and that Court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court not later than fourteen (14) business days after the reviewing Court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payments or the Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendants' obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.
- k. **Timing of Settlement Funding and Provision of Settlement Shares and Other Payments.** Defendants shall fund the Gross Settlement Amount by depositing the money in the QSF set up by the Settlement Administrator. Defendants shall fund the Gross Settlement Amount and the amount necessary to pay Defendants' share of payroll taxes within twenty-one (21) calendar days of the Effective Date. Within fifteen (15) calendar days after Defendants fund the Gross Settlement Amount, the Settlement Administrator will make payment of all Settlement Shares to all Participating Class Members, even if their Class Notice was undeliverable, as well as payment of Settlement Administration Expenses, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payments and the PAGA Payment in accordance with this Agreement.
- l. **Uncashed Settlement Checks.** Before checks are mailed, the Settlement Administrator shall update address information through the National Change of Address database and an Accurint search (or substantially similar in-depth skip trace). A Participating Class Member or Aggrieved Employee must cash his or her Settlement Share check within one-hundred eighty (180) calendar days after it is mailed to him or her. The expiration date of the check must be conspicuously printed. If a check is returned to the Settlement Administrator within one-hundred twenty (120) calendar days after the last mailing, the Settlement Administrator will make all reasonable efforts to re-mail it to the affected individual at his or her correct address by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook. If a Participating Class Member's or Aggrieved Employee's check is not cashed within one-hundred twenty (120) calendar days after its last mailing to the affected individual, the Settlement Administrator will send

the individual a notice informing him or her that unless the check is cashed in the next sixty (60) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the check remains uncashed by the expiration of the sixty (60) day period after this notice, the funds from such uncashed checks will be paid to the California State Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check, and the Participating Class Member or Aggrieved Employee will remain bound by the Settlement. The Parties agree that this disposition results in no "unpaid residue" within the meaning of California Code of Civil Procedure ("Code of Civil Procedure") Section 384, as the entire Net Settlement Amount will be paid out to Participating Class Members or Aggrieved Employees, whether or not they all cash their Settlement Share checks.

- m. **Final Report by Settlement Administrator to Court.** Within fifteen (15) calendar days after final disbursement of all funds from the Gross Settlement Amount, the Settlement Administrator will provide the Parties with a declaration proving a final report on the disbursements of all funds from the Gross Settlement Amount.

83. **Release of Claims.**

- a. **Participating Class Members.** Upon the Effective Date, Defendants will receive a release of all facts and legal theories that were or reasonably could have been alleged based upon the Second Amended Consolidated Complaint in the *McDowell* Action, or if not consolidated the operative complaints in any/all of the Actions for their respective periods, including: (i) failure to pay wages due (including minimum wages, straight wages, overtime/premium/double-time wages, rounding, off-the-clock, pre- and post-liminary work, or miscalculation of the regular rate); (ii) failure to provide proper meal periods and/or proper premium payments in lieu of meals; (iii) failure to provide proper rest breaks and/or proper premium payments in lieu of rest breaks; (iv) failure to provide accurate wage statements; (v) failure to reimburse for business expenses; (vi) failure to pay wages timely during employment; (vii) failure to pay wages timely at or after termination; (viii) failure to maintain necessary or accurate payroll records and work schedules; (ix) failure to provide one day's rest in seven/causing employees to work more than six days in seven; (ix) (x) unfair business practices; (xi) civil penalties under the PAGA based on the facts and legal theories alleged in the Second Amended Complaint; (xii) any other claims or statutory penalties under the wage and hour laws pleaded in the Actions; and (xiii) all damages, statutory penalties, interest and other amounts recoverable under said causes of action under California and federal law, to the extent permissible, including but not limited to the California Labor Code as to the facts alleged in the operative complaints in the Actions for their respective periods, the applicable Wage Orders as to the facts alleged in the operative complaints in the Actions for their respective periods, and the California Unfair Competition Law as to

the facts alleged in the operative complaints in the Actions for their respective periods. Claims for wrongful termination are excluded from the Released Claims, except with respect to the Plaintiffs. ("Released Class Claims"). Claims for vested benefits, unemployment insurance, disability, social security, and workers' compensation, are expressly excluded from the Released Class Claims. The Released Class Claims are released against all Released Parties. The res judicata effect of the Judgment will be the same as that of the Release.

- b. **Aggrieved Employees.** Upon the Effective Date, Defendants shall receive a release from the State of California of all PAGA claims for civil penalties under California Labor Code Sections 2698 et. seq., based on the facts and legal theories alleged in the Second Amended Complaint, or if not consolidated, the operative complaints in any/all of the Actions which occurred during the respective PAGA Period ("Released PAGA Claims"), which include the following alleged violations: (i) failure to pay wages due (including minimum wages, straight wages, overtime/premium/double-time wages, rounding, off-the-clock, pre- and post-liminary work, or miscalculation of the regular rate); (ii) failure to provide proper meal periods and/or proper premium payments in lieu of meals; (iii) failure to provide proper rest breaks and/or proper premium payments in lieu of rest breaks; (iv) failure to provide accurate wage statements; (v) failure to reimburse for business expenses; (vi) failure to pay wages timely during employment; (vii) failure to pay wages timely at or after termination; (viii) failure to maintain necessary or accurate payroll records and work schedules; (ix) failure to provide one day's rest in seven/causing employees to work more than six days in seven; (x) retaliation against employees who make good faith complaints about unpaid wages; (xi) any other claims for civil penalties premised on the wage and hour laws pleaded in the operative complaints in the Actions. Claims for vested benefits, unemployment insurance, disability, social security, and workers' compensation, are expressly excluded from the Released Claims. The Released PAGA Claims are released against all Released Parties. The res judicata effect of the Judgment will be the same.

The Released PAGA Claims are released against all Released Parties. The release of the Released PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class.

- c. **Plaintiffs.** As of the Effective Date, Plaintiffs generally release and discharge the Released Parties from any and all claims, transactions or occurrences between them that occurred during the Class Period ("Plaintiffs' Released Claims"). This release of Plaintiffs' Released Claims releases the Released Parties from any claim that Plaintiffs could maintain in any action against any Released Party that occurred during the Class Period. Notwithstanding the foregoing, this waiver and release of claims does not extend to any rights which as a matter of law cannot be waived and released by private agreement, including rights to sue to

enforce this Agreement and rights to vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits and claims outside the Class Period.

Plaintiffs acknowledge that they may discover facts or law different from, or in addition to the facts or law that they know or believe to be true with respect to the claims and matters released by way of this Agreement and agrees, nonetheless, that this Agreement and the releases contained in it shall be and remain effective in all respects, notwithstanding such different or additional facts or the discovery of them. The Parties declare and represent that they intend this Agreement to be complete and not subject to any claim of mistake, and that the releases herein express full and complete releases, and that they intend that the releases herein shall be final and complete.

- d. **ADEA Representation.** Plaintiffs represent and warrant that, as of the Effective Date, they are each under the age of forty (40).
- e. **Plaintiffs' Abandonment of Claims and Release of Objections.** Upon the Effective Date, Plaintiffs in the Actions release all objections and challenges to the settlement in the *McDowell* Action. In the event that there are any claims, theories of relief, primary rights, or causes of action sought to be released by the settlement agreement reached between the parties in the *McDowell* Action, but not covered by this Settlement, Plaintiffs' hereby and forever abandon them and agree not to pursue them through litigation or otherwise, whether individually or as part of a class action, part of a collective action, or as a representative plaintiff in a PAGA action. The Plaintiffs acknowledge and agree that any claims any of them have alleged relating to wrongful termination in violation of public policy were brought individually and on their own behalf, and not as part of their class or representative allegations on behalf of others.
- f. **Plaintiffs' Waiver of Rights Under California Civil Code Section 1542.** As partial consideration for the Class Representative Service Payments, the Plaintiffs' Released Claims shall include all such claims, whether known or unknown by the releasing party. Thus, even if Plaintiffs discover facts and/or claims in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Plaintiffs' Released Claims, those claims will remain released and forever barred. Therefore, with respect to Plaintiffs' Released Claims, Plaintiffs expressly waive and relinquish the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her, would have materially affected his or her settlement with the debtor or released party.

- g. **Plaintiffs' Other Claims.** Plaintiffs Angel Zamora, Ladell Taylor and Mark Luna represent that they have additional individual claims against Defendants. Plaintiffs are separately settling these individual claims. In addition to the Gross Settlement Amount, Plaintiff Angel Zamora will also separately be paid for resolution of his DFEH claim. The individual settlement paid to Plaintiff Angel Zamora is in addition to the Gross Settlement Amount and will be memorialized in an individual long-form settlement agreement that will be separate from this Agreement. In addition to the Gross Settlement Amount, Plaintiff Ladell Taylor will also separately be paid for resolution of his DLSE claim. The individual settlement paid to Plaintiff Ladell Taylor is in addition to the Gross Settlement Amount and will be memorialized in an individual long-form settlement agreement that will be separate from this Agreement. In addition to the Gross Settlement Amount, Plaintiff Mark Luna will also separately be paid for resolution of his DLSE claim. The individual settlement paid to Plaintiff Mark Luna is in addition to the Gross Settlement Amount and will be memorialized in individual long-form settlement agreement that will be separate from this Agreement. If the Court requires the Parties to submit the terms of the individual settlement agreements to obtain approval of this Settlement, the Parties agree that the individual settlement agreements will be submitted in camera under seal to the Court.
- h. **No Unalleged Claims.** Plaintiffs and Class Counsel are not currently aware of any: (a) unalleged claims in addition to, or different from, those which are finally and forever settled and released against the Released Parties by this Settlement; and (b) unalleged facts or legal theories upon which any claims or causes of action could be brought against Defendants, except such facts and theories specifically alleged in the operative complaint in the Actions. Plaintiffs and Class Counsel further represent that, other than the Actions, they have no current intention of asserting any other claims against Defendants in any judicial or administrative forum. Plaintiffs and Class Counsel further represent that they do not currently know of or represent any persons who have expressed any interest in pursuing litigation or seeking any recovery against Defendants. The Parties acknowledge, understand and agree that the representations described in this paragraph are essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.
- i. **Class Counsel.** As of the date the Defendants fully fund the Gross Settlement Amount, and except as otherwise provided by this Agreement and the Judgment, Class Counsel and any counsel associated with Class Counsel waive any claim to costs and attorneys' fees and expenses against Defendants arising from or related to the Action.
84. **Nullification of Settlement Agreement.** In the event that this Agreement is not preliminarily or finally approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court, or in any way prevents or prohibits

Defendants from obtaining a complete resolution of the claims as described herein:

- a. This Agreement shall be void ab initio and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;
- b. The conditional class certification (obtained for any purpose) shall be void ab initio and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and
- c. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses or arguments in the Actions, including with respect to the issue of class certification.

85. **No Effect on Other Benefits.** The Settlement Shares will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiffs or Participating Class Members, and Plaintiffs and Participating Class Members will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement.

IV. MISCELLANEOUS TERMS

85. **No Admission of Liability or Class Certification for Other Purposes.**

- a. Defendants and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendants or the Released Parties, or an admission by Plaintiffs that any of the claims were non-meritorious or any defense asserted by Defendants was meritorious. This Settlement and the fact that Plaintiffs and Defendants were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement). Nothing in this Agreement shall be constructed as an admission by Defendants of any liability or wrongdoing as to Plaintiffs, Class Members, or any other person, and Defendants specifically disclaim any such liability or wrongdoing. Moreover, it is not, and it should not be construed as, any admission of fact or law in this matter or any other matter that a class action is appropriate. The Parties have entered into this settlement with the intention of avoiding further disputes and litigation with the attendant

inconvenience, expenses and risks. Nothing in this Agreement shall be construed as an admission by Plaintiffs that Plaintiffs' claims do not have merit or that class action is inappropriate.

- b. Whether or not the Judgment becomes Final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiffs or Defendants or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.
 - c. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may only be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.
86. **Confidentiality.** Plaintiffs and Class Counsel agree not to disclose or publicize the Settlement, including its terms or contents and the negotiations underlying the Settlement, in any manner or form, directly or indirectly, to any person or entity, except potential class members, the Court, and as shall be contractually required to effectuate the terms of the Settlement. For the avoidance of doubt, this section means Plaintiffs and Class Counsel agree not to issue press releases, communicate with, or respond to any media or publication entities, publish information in manner or form, whether printed or electronic, on an medium or otherwise communicate, whether by print, video, recording or any other medium, with any person or entity concerning the Settlement, including, its terms or contents and the negotiations underlying the Settlement, except as shall be contractually required to effectuate the terms of the Settlement and the posting of Court filed documents on the Class Counsel's website. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Plaintiffs' Counsel may disclose the name of the Parties in the Actions and the venue/case number of the Actions, the Gross Settlement Amount, total number of Class Members, and the attorneys' fees awarded.
87. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.

88. **Attorney Authorization.** Class Counsel and Defendants' Counsel warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the mediator for resolution.
89. **No Prior Assignments:** The Parties represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.
90. **No Tax Advice:** Neither Class Counsel nor Defendants' Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
91. **Modification of Agreement.** Except as set forth in section IV(88) hereinabove this Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
92. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
93. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California.
94. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
95. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
96. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendants in connection with the mediation or other settlement negotiations in this matter may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule. Within

thirty (30) days after the Defendants fully fund the Gross Settlement Amount, Class Counsel will return or destroy and confirm in writing to Defendants the destruction of all such documents and data. In accordance with the professional rules and law, Class Counsel may retain all papers and property to which their clients are entitled, and may keep their own work product, filed briefs, and other pleadings that may refer to, quote or incorporate the documents and/or data provided to Class Counsel by Defendants in connection with the Actions.

97. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
98. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third (3rd) business day after mailing by United States mail, addressed as follows:

To Plaintiffs and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

Hali M. Anderson
Monique R. Rodriguez
GrahamHollis APC
3555 Fifth Avenue, Suite 200
San Diego, CA 92103
Tel.: (619) 692-0800
Fax : (619) 692-0822
E-Mail : handerson@grahamhollis.com
mrodriguez@grahamhollis.com

Edwin Aiwazian
Arby Aiwazian
Joanna Ghosh
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, CA 91203
Tel: (818) 265-1020
Fax: (818) 265 1021
E-Mail: edwin@calljustice.com
arby@calljustice.com
joanna@calljustice.com

To Defendants:

Evan R. Moses
Ogletree, Deakins, Nash, Smoak & Stewart P.C.
400 South Hope Street, Suite 1200
Los Angeles, CA
Tel.: (213) 239-9800
Fax: (213) 239-9045
Email: evan.moses@ogletree.com

99. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
100. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process from the mediation with Louis Marlin, Esq. on November 10, 2021 until the earlier of the Effective Date or the date this Agreement shall not longer be of any force or effect.
101. **Notice of Settlement to LWDA.** Plaintiffs hereby represent that by April 6, 2022, Plaintiffs will provide notice of this Agreement and proposed settlement to the Labor Workforce Development Agency ("LWDA") as required by Labor Code Section 2699(1)(2).
102. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Action under Code of Civil Procedure section 664.6 to ensure the continuing implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.

V. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

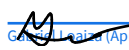
Dated: Mar 31, 2022



Angel Zamora (Mar 31, 2022 17:01 PDT)

Plaintiff Angel Zamora

Dated: Apr 1, 2022



Gabriel Loaiza (Apr 1, 2022 06:06 PDT)

Plaintiff Gabriel Loaiza

Dated: Mar 31, 2022

Jorge Guillen

Jorge Guillen (Mar 31, 2022 16:58 PDT)

Plaintiff Jorge Guillen

Dated: _____

Plaintiff Ladell Taylor

Dated: _____

Plaintiff Phil Poston

Dated: _____

Plaintiff Mark Luna

Dated: _____

[name]

For Defendant Penske Truck Leasing Co., L.P.

Dated: _____

[name]

For Defendant Penske Logistics, LLC

Dated: 4/1/22

Kyle Nordrehaug

Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP

Attorney for Plaintiffs

Dated: _____

Hali M. Anderson

Monique R. Rodriguez

Graham Hollis, APC

Attorney for Plaintiffs

Dated: _____

Edwin Aiwarzian

Lawyers for Justice, PC

Attorney for Plaintiffs

Dated: _____

Even R. Moses

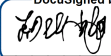
Ogletree, Deakins, Nash, Smoak, Stewart P.C.

Attorney for Defendants

Dated: _____

Plaintiff Jorge Guillen

Dated: 4/1/2022

DocuSigned by:

F1D0FE7424BE488...

Plaintiff Ladell Taylor

Dated: _____

Plaintiff Phil Poston

Dated: _____

Plaintiff Mark Luna

Dated: _____

[name]
For Defendant Penske Truck Leasing Co., L.P.

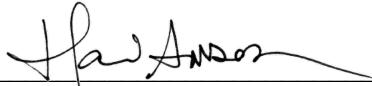
Dated: _____

[name]
For Defendant Penske Logistics, LLC

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: April 1, 2022



Hali M. Anderson
Monique R. Rodriguez
GrahamHollis, APC
Attorney for Plaintiffs

Dated: _____

Edwin Aiwarzian
Lawyers for Justice, PC
Attorney for Plaintiffs

Dated: _____

Even R. Moses
Ogletree, Deakins, Nash, Smoak, Stewart P.C.
Attorney for Defendants

Dated: _____

Plaintiff Jorge Guillen

Dated: _____

Plaintiff Ladell Taylor

Dated: 03/30/2022

Electronically Signed
2022-04-01 06:06:35 UTC - 70.142.33.60
Phil Poston
Nintex AssureSign® 17c0948e-3f9e-41d5-ab86-aa69017d5aaL

Plaintiff Phil Poston

Dated: _____

Plaintiff Mark Luna

Dated: _____

_____[name]
For Defendant Penske Truck Leasing Co., L.P.

Dated: _____

_____[name]
For Defendant Penske Logistics, LLC

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: _____

Hali M. Anderson
Monique R. Rodriguez
GrahamHollis, APC
Attorney for Plaintiffs

Dated: 04/01/2022


Edwin Aiwanian
Lawyers for Justice, PC
Attorney for Plaintiffs

Dated: _____

Even R. Moses
Ogletree, Deakins, Nash, Smoak, Stewart P.C.
Attorney for Defendants

Dated: _____

Plaintiff Jorge Guillen

Dated: _____

Plaintiff Ladell Taylor

Dated: _____

Plaintiff Phil Poston

Dated: Mar 31, 2022



Mark Luna (Mar 31, 2022 19:59 PDT)

Plaintiff Mark Luna

Dated: _____

[name]

For Defendant Penske Truck Leasing Co., L.P.

Dated: _____

[name]

For Defendant Penske Logistics, LLC

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: _____

Hali M. Anderson
Monique R. Rodriguez
GrahamHollis, APC
Attorney for Plaintiffs

Dated: _____

Edwin Aiwazian
Lawyers *for* Justice, PC
Attorney for Plaintiffs

Dated: _____

Even R. Moses
Ogletree, Deakins, Nash, Smoak, Stewart P.C.
Attorney for Defendants

Dated: _____

Plaintiff Angel Zamora

Dated: _____

Plaintiff Gabriel Loaiza

Dated: _____

Plaintiff Jorge Guillen

Dated: _____

Plaintiff Ladell Taylor

Dated: _____

Plaintiff Phil Poston

Dated: _____

Plaintiff Mark Luna

Dated: 4/11/2022



Christina Fletcher, VP + Asst. Gen. Counsel
For Defendant Penske Truck Leasing Co., L.P.

Dated: 4/11/2022



Christina Fletcher, VP + Asst. Gen. Counsel
For Defendant Penske Logistics LLC

Dated: _____

Norman Blumenthal
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: _____

Hali M. Anderson
Monique R. Rodriguez
GrahamHollis, APC
Attorney for Plaintiffs

Dated: _____

Edwin Aiwarzian
Lawyers for Justice, PC
Attorney for Plaintiffs

Dated: _____

Even R. Moses
Ogletree, Deakins, Nash, Smoak, Stewart P.C.
Attorney for Defendant

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION
AND HEARING DATE FOR FINAL COURT APPROVAL**

***McDowell, et al. v. Penske Truck Leasing Co., L.P., Penske Logistics LLC, Superior Court of
the State of California, County of San Bernardino, Case No. CIVDS2012273***

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Settlement Payment is: \$<<___>>. See the explanation in Section 5 below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. In exchange for the settlement payment, you will release claims against the Defendants as detailed in Section 4 below. If your address has changed, you must notify the Settlement Administrator as explained in Section 6 below.
Exclude Yourself	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement, however if you are an Aggrieved Employee who requests exclusion, you will still receive a small amount as your share of the PAGA Payment described below. Instructions are set forth in Section 7 below.
Object	Write to the Court about why you do not agree with the settlement. Directions are provided in Section 8 below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of the above-captioned lawsuit pending in the Superior Court of the State of California, in and for the County of San Bernardino (the “Court”) has been reached between Plaintiffs Eric D. McDowell, Aaron L. Stubbs, Leon C. Willis, Angel Zamora, Gabriel Loaiza, Jorge Guillen, Ladell Taylor, Mark Luna, and Phil Poston (collectively, “Plaintiffs”) and Defendants Penske Truck Leasing Co., L.P. and Penske Logistics LLC (collectively “Defendant”) and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All current and former non-exempt employees of Defendant Penske Logistics LLC and/or Defendant Penske Truck Leasing Co., L.P. employed at any time during the Class Period.

The Class Period is from January 31, 2016 through April 6, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On May 29, 2020, plaintiffs Eric D. McDowell, Aaron L. Stubbs and Leon C. Willis filed a Complaint in the Superior Court of the State of California, County of San Bernardino, Case Number CIVDS2012273, asserting claims against Defendant Penske Truck Leasing Co., L.P., for alleged violations of the California Labor Code and the Business and Professions Code, including failure to reimburse for necessary business expenses, failure to pay minimum wage, and unfair business practices, along with claims for interest, attorneys' fees and costs. On September 10, 2021, plaintiffs Eric D. McDowell, Aaron L. Stubbs and Leon C. Willis filed a First Amended Complaint against Defendants, for alleged violations of the California Labor Code and the Business and Professions Code, including failure to reimburse for necessary business expenses, unfair business practices, failure to pay minimum wage, failure to pay overtime, failure to provide proper meal and rest periods, failure to maintain accurate required records and to provide complete, accurate, or properly formatted wage statements, failure to timely pay final wages and to pay all wages owed upon separation, and civil penalties under PAGA, along with claims for restitution under California Business & Professions Code sections 17200, *et seq.*, and claims for interest, attorneys' fees and costs. This lawsuit is referred to as the "Action".

Additional related lawsuits were filed against Defendants which alleged similar wage and hour claims. These Related Actions are: (1) *Angel Zamora, et al. v. Penske Truck Leasing Co, L.P.*, Case No. 2:20-cv-02503 ODW(MRWx), pending in United States District Court, Central District of California; (2) *Angel Zamora, et al. v. Penske Truck Leasing Co, L.P.*, Case No. 20STCV46359, pending in the Superior Court of the State of California, County of Los Angeles; (3) *Ladell Taylor, et al. v. Penske Logistics LLC*, Case No. 5:20-cv-02623-ODW (MRWx), pending in the United States District Court, Central District of California; (4) *Ladell Taylor, et al v. Penske Logistics LLC*, Case No. CIVSB2029173, pending in the Superior Court of the State of California, County of San Bernardino; (5) *Mark Luna v. Penske Logistics LLC*, Case No. 2:21-cv-00081-TLN-JDP, pending in the United States District Court, Eastern District of California; (6) *Mark Luna v. Penske Logistics LLC*, Case No. 34-2021-00292756, pending in the Superior Court of the State of California, County of Sacramento; (7) *Phil Poston v. Penske Logistics LLC*, Case No. 2:21-cv-03939, United States District Court, Central District of California; and (8) *Phil Poston v. Penske Logistics, LLC*, Case No. 21CMCV00142, pending in the Superior Court of the State of California, County of Los Angeles (collectively, the "Related Actions").

As part of this Settlement, the Plaintiffs and the Defendants have filed a Second Amended Complaint in the Action which consolidated the Related Actions and all of the Plaintiffs in the Related Actions into the Action for settlement purposes.

Defendants deny and dispute all claims asserted by the Plaintiffs. Specifically, Defendants contend that Plaintiffs and the Class Members were properly compensated for wages under California law; that Defendants did not fail to pay to Plaintiffs or any Class Members any required expense reimbursement; that Defendants complied with California wage statement requirements; that Defendants are not liable for any of the penalties claimed or that could be claimed in the Action; and that this Action cannot be maintained as a class action at trial.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiffs to serve as the Class Representatives, and the law firms of the Skapik Law Group, Blumenthal Nordrehaug Bhowmik De Blouw LLP, GrahamHollis, APC, and Lawyer for Justice, PC to serve as Class Counsel.

3. What are the terms of the Settlement?

Settlement Fund. Defendants have agreed to pay two settlements in the combined “all in” amount of Two Million Four Hundred Fifty-Five Thousand Dollars (\$2,455,000) (the “Settlement Fund”) to fund the settlement of this Action. The Settlement Fund includes all payments of Individual Settlement Payments to Class Members contemplated by the Settlement, the Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Settlement for civil penalties. Any employer-side payroll taxes on the portion of the Individual Settlement Payments allocated to wages shall be separately paid by Defendants.

Within forty-six (46) days of the Judgment becoming Final, the Settlement Administrator will mail checks for the Individual Settlement Payments to Participating Class Members. “Final” means the date the Judgment is entered, or if there are objections or any appeal, the date the Judgment is affirmed and is no longer subject to appeal.

Amounts to be Paid From the Settlement Fund. The Settlement provides for certain payments to be made from the Settlement Fund as follows, which will be subject to final Court approval, and which will be deducted from the Settlement Fund before Individual Settlement Payments are made to Class Members who do not request exclusion (“Participating Class Members”):

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$30,000, for expenses, including, without limitation, expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing Individual Settlement Payments and tax forms, and handling inquiries and uncashed checks.
- Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Payment to Skapik Law Group of reasonable attorneys’ fees not to exceed \$333,333.00 and the additional amount to reimburse actual litigation costs incurred not to exceed \$12,000.00. In addition, Blumenthal Nordrehaug Bhowmik De Blouw LLP (BNBD), GrahamHollis, APC (GH), and Lawyer for Justice, PC. (LFJ) will seek the payment of attorneys’ fees not to exceed \$485,000.00 collectively to be split 45% to BNBD; 45% to GH; and, 10% to LFJ, and the additional amount to reimburse actual litigation costs incurred not to exceed \$70,000.00. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money) and has been paying all litigation costs and expenses.
- Class Representative Service Payments. Class Representative Service Payments in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to each of the Plaintiffs, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook. Altogether, the Plaintiffs are applying for a combined total of \$90,000.00 in Class Representative Service Payments.

- PAGA Settlement. There are two proposed payments relating to the claim for penalties under the Private Attorney Generals Act (“PAGA”). The first PAGA Payment is for \$75,000 to be allocated \$56,250 to the California Labor and Workforce Development Agency (“LWDA”) and \$18,750 will be part of the Net Settlement Amount and distributed to the Class. The second PAGA Payment is \$30,000 to be allocated \$22,500 to the LWDA and \$7,500 will be distributed to the Aggrieved Employees based on their respective pay periods worked during the applicable period. “Aggrieved Employees” means (i) all individuals who were employed by Penske Logistics LLC in California as non-exempt employees at any time during the period October 28, 2019 to April 6, 2022 (the “PL Aggrieved Employees”), and (ii) all individuals who were employed by Penske Truck Leasing Co., L.P. in California as non-exempt employees at any time during the period September 25, 2018 to April 6, 2022 (the “PTL Aggrieved Employees”). The PAGA Payment shall be allocated to all Aggrieved Employees regardless of whether they request exclusion. One hundred percent (100%) of each Aggrieved Employee’s share of the PAGA Payment is in settlement of claims for civil penalties allegedly due which shall not be subject to wage withholdings, and shall be reported on IRS Form 1099.

Calculation of Payments to Class Members. After all of the payments of the court-approved attorneys’ fees and costs, the Class Representative Service Payments, the PAGA Settlement, and the Settlement Administration Expenses are deducted from the Settlement Amount, the remaining portion, called the “Net Settlement Amount”, shall be distributed to Settlement Members as Individual Settlement Payments. The combined Net Settlement Amount is estimated to be at least \$1,329,700.00, based upon the above proposed deductions. Settlement Administrator will pay an Individual Settlement Payment from the Net Settlement Amount to each Settlement Member. The Individual Settlement Payment for each Settlement Member will be calculated as follows: the Settlement Administrator will calculate the total Qualified Workweeks for all Settlement Members. “Qualified Workweeks” are the total number of weeks in which the Class Members actually worked within the Class Period. The respective Qualified Workweeks for each Settlement Member will be divided by the total Qualified Workweeks for all Class Members, resulting in the Payment Ratio for each Settlement Member. Each Participating Class Member’s Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Participating Class Member’s estimated Individual Settlement Payment. Workweeks shall be based upon Defendants’ payroll records, but Class Members will have the right to challenge the number of workweeks as explained below.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Settlement Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty percent (20%) of each Participating Class Member’s Individual Settlement Payment is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Eighty percent (80%) of each Settlement Member’s Individual Settlement Payment is in settlement of claims for interest and penalties allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Settlement Members. Neither Class Counsel nor Defendants’ Counsel intend anything contained

in this Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering the Judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon the Effective Date, Defendants will receive a release of all facts and legal theories that were or reasonably could have been alleged based upon the Second Amended Complaint, or if not consolidated, the operative complaints in any/all of the Actions for their respective periods, including: (i) failure to pay wages due (including minimum wages, straight wages, overtime/premium/double-time wages, rounding, off-the-clock, pre- and post-liminary work, or miscalculation of the regular rate); (ii) failure to provide proper meal periods and/or proper premium payments in lieu of meals; (iii) failure to provide proper rest breaks and/or proper premium payments in lieu of rest breaks; (iv) failure to provide accurate wage statements; (v) failure to reimburse for business expenses; (vi) failure to pay wages timely during employment; (vii) failure to pay wages timely at or after termination; (viii) failure to maintain necessary or accurate payroll records and work schedules; (ix) failure to provide one day's rest in seven/causing employees to work more than six days in seven; (x) unfair business practices; (xi) civil penalties under the PAGA based on the facts and legal theories alleged in the Second Amended Complaint; (xii) any other claims or statutory penalties under the wage and hour laws pleaded in the Actions; and (xiii) all damages, statutory penalties, interest and other amounts recoverable under said causes of action under California and federal law, to the extent permissible, including but not limited to the California Labor Code as to the facts alleged in the operative complaints in the Actions for their respective periods, the applicable Wage Orders as to the facts alleged in the operative complaints in the Actions for their respective periods, and the California Unfair Competition Law as to the facts alleged in the operative complaints in the Actions for their respective periods ("Released Class Claims"). Claims for wrongful termination are excluded from the Released Claims, except with respect to the Plaintiffs. Claims for vested benefits, unemployment insurance, disability, social security, and workers' compensation, are expressly excluded from the Released Class Claims. The Released Class Claims are released against all Released Parties. The period of the Release shall extend to the limits of the Class Period.

This means that, if you do not timely exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants and any other Released Party about the Released Claims resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Released PAGA Claims. Upon the Effective Date, Defendants shall receive a release from the State of California of all PAGA claims for civil penalties under California Labor Code Sections 2698 et. seq., based on the facts and legal theories alleged in the Second Amended Complaint, or if not consolidated, the operative complaints in any/all of the Actions which occurred during the respective PAGA Period ("Released PAGA Claims"), which include the following alleged violations: (i) failure to pay wages due (including minimum wages, straight wages, overtime/premium/double-time wages, rounding, off-the-clock, pre- and post-liminary work, or miscalculation of the regular rate); (ii) failure to provide proper meal periods and/or proper

premium payments in lieu of meals; (iii) failure to provide proper rest breaks and/or proper premium payments in lieu of rest breaks; (iv) failure to provide accurate wage statements; (v) failure to reimburse for business expenses; (vi) failure to pay wages timely during employment; (vii) failure to pay wages timely at or after termination; (viii) failure to maintain necessary or accurate payroll records and work schedules; (ix) failure to provide one day's rest in seven/ causing employees to work more than six days in seven; (x) retaliation against employees who make good faith complaints about unpaid wages; (xi) any other claims for civil penalties premised on the wage and hour laws pleaded in the operative complaints in the Actions. Claims for vested benefits, unemployment insurance, disability, social security, and workers' compensation, are expressly excluded from the Released Claims. The Released PAGA Claims are released against all Released Parties. The res judicata effect of the Judgment will be the same.

The Released PAGA Claims are released against all Released Parties. The release of the Released PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class.

5. How much will my payment be?

Defendants' records reflect that you have <<[REDACTED]>> Qualified Workweeks worked for Defendants as Class Member during the Class Period. The Class Period is January 31, 2016 through April 6, 2022.

Based on this information, your estimated Individual Settlement Payment is <<[REDACTED]>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than [REDACTED] **[Response Deadline]**.

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your Individual Settlement Payment will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Simpluris, Inc., (888) 369-3780, option 2.

The Court will hold a Final Approval Hearing on [REDACTED], at [REDACTED] in Department S26 of the San Bernardino County Superior Court to decide whether to approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately two months after this hearing. If there are objections or appeals, resolving them can take time, usually more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will not receive an Individual Settlement Payment from the Settlement, and you will not be bound by the Settlement which means you will retain the right to sue Defendants for the Released Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Settlement and will remain subject to the release of the Released PAGA Claims regardless whether they submit a request for exclusion.

To opt out, you must mail to the Settlement Administrator, by First Class Mail, a written, signed and dated request to opt-out postmarked no later than [redacted] [Response Deadline]. The request to opt-out must be received by the Settlement Administrator and should state in substance: “I wish to be excluded from the Class in the *McDowell v. Penske* lawsuit. I understand that if I ask to be excluded from the Class, I will not receive a settlement payment from the settlement of this Action.” The request to opt-out must also include the Class Member’s full name, address, telephone number, the approximate dates of employment in California by Defendants, and the name and number of the case, which is *McDowell v. Penske*, Case No. CIVDS2012273. The request to opt-out must be signed by you. No other person may opt-out for a living member of the Class.

The address for the Settlement Administrator is P.O. Box 26170, Santa Ana, CA 92799. Written requests for exclusion that are postmarked after [redacted], or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I don’t agree with the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, the attorneys’ fees, costs and/or the service awards, either in writing or in person. Objections that are in writing must state the Class Member’s name, current address, telephone number, and the dates of employment in California by Defendants, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is *McDowell v. Penske*, in the Superior Court of the State of California, County of San Bernardino, Case No. CIVDS2012273.

All written objections must be mailed to the Settlement Administrator at P.O. Box 26170 Santa Ana, CA 92799 no later than [redacted] [Response Deadline]. Any Class Member who does not request exclusion may, if the member so desires, enter an appearance through their own counsel.

Class Members who file a written objection may appear remotely at the Final Approval Hearing on [redacted] at [redacted] in Department S26 of the San Bernardino County Superior Court to make an oral objection. Currently, only remote appearances at the hearing are allowed. To appear at the hearing, contact Court Call (888-882-6878 or www.courtcall.com) to schedule a remote appearance. You may contact Class Counsel if you need assistance to appear at the hearing or have questions.

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object and you will still be mailed a check for your Individual Settlement Payment. Any Class Member who does not object in the manner provided in this Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at [redacted] on [redacted], at the San Bernardino County Superior Court located at 247 W. 3rd St. San Bernardino, CA 92415, in Department S26 before Judge David Cohn. At this hearing the Court will consider whether the

Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing remotely. Please see the most current information about the hearing at the Court's website at <https://www.sb-court.org/>.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at (888) 369-3780, option 2, or write to *McDowell v. Penske* Settlement Administrator, c/o Simpluris, P.O. Box 26170, Santa Ana, CA 9279. You may also contact Class Counsel. The contact information for Class Counsel is as follows:

Class Counsel:

Mark J. Skapik, Esq.
Geraldyn L. Skapik, Esq.
Blair J. Berkley, Esq.
SKAPIK LAW GROUP
5861 Pine Avenue, Suite A-1
Chino Hills, CA 91709
Telephone: (909) 398-4404
Facsimile: (909) 398-1883
Email: gskapik@skapiklaw.com
Edwin Aiwezian
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, CA 91203
Tel: (818) 265-1020
Fax: (818) 265 1021
E-Mail: edwin@calljustice.com

Norman Blumenthal
Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel: 858-551-1223 / Fax: 858-551-1232
Email: kyle@bamlawca.com

Hali M. Anderson
Monique R. Rodriguez
GrahamHollis APC
3555 Fifth Avenue, Suite 200
San Diego, CA 92103
Tel.: (619) 692-0800
Fax : (619) 692-0822
E-Mail : handerson@grahamhollis.com
mrodriguez@grahamhollis.com

Counsel for the Defendants is:

Evan R. Moses
Ogletree, Deakins, Nash, Smoak & Stewart P.C.
400 South Hope Street, Suite 1200
Los Angeles, CA

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by contacting Class Counsel or the Settlement Administrator, or by examining the Court's file on the Open Access website for the California Superior Court for the County of San Bernardino (<http://openaccess.sb-court.org/OpenAccess/>) and entering the Case No. CIVDS2012273.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all unclaimed funds to the California State Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL OF THE SETTLEMENT]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

ERIC D. MCDOWELL, an individual; AARON L. STUBBS, an individual; LEON C. WILLS, and individual, and on behalf of all persons similarly situated,

Plaintiffs,

v.

PENSKE TRUCK LEASING CO., L.P.; and DOES 1 through 10 inclusive,

Defendants.

LADELL TAYLOR, as an individual, on behalf of himself and all persons similarly situated,

Plaintiff,

v.

PENSKE LOGISTICS, LLC, a Delaware limited liability company authorized to do business in California; PENSKE TRUCK LEASING CO., L.P., a Delaware limited partnership authorized to do business in California; and DOES 1 through 50 inclusive,

Defendants.

ANGEL ZAMORA, GABRIEL LOAIZA and JORGE GUILLEN, individuals, on behalf of themselves and on behalf of all persons similarly

Case No. CIVDS2012273

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. David Cohn
Dept: S26

Action Filed: May 29, 2020
Trial Date: None

PRELIMINARY APPROVAL ORDER

1 situated,

2 Plaintiffs,

3 vs.

4 PENSKE TRUCK LEASING CO., L.P., a
5 Limited Partnership,

6 Defendant.

7 MARK LUNA, an individual, on behalf of
8 himself and on behalf of all persons similarly
9 situated,

10 Plaintiff,

11 v.

12 PENSKE LOGISTICS LLC, a Limited Liability
13 Company; and DOES 1 through 50, Inclusive,

14 Defendants.

15 PHIL POSTON, individually, and on behalf of
16 other members of the general public similarly
17 situated;

18 Plaintiff,

19 vs.

20 PENSKE LOGISTICS, LLC, an unknown
21 business entity; PENSKE TRUCK LEASING
22 CO., L.P., an unknown business entity; and
23 DOES 1 through 100, inclusive,

24 Defendants.

25 This matter, having come before the Honorable David Cohn of the Superior Court of the
26 State of California, in and for the County San Bernardino, on April 6, 2022, for the motion by
27 Plaintiffs Eric D. McDowell, Aaron L. Stubbs, Leon C. Willis, Angel Zamora, Gabriel Loaiza,
28 Jorge Guillen, Ladell Taylor, Mark Luna, and Phil Poston (collectively, "Plaintiffs") for
preliminary approval of the class settlement with Defendants Penske Truck Leasing Co., L.P. and
Penske Logistics LLC (collectively "Defendants"). The Court, having considered the briefs,
argument of counsel and all matters presented to the Court and good cause appearing, hereby
GRANTS Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

PRELIMINARY APPROVAL ORDER

1 **IT IS HEREBY ORDERED:**

2 1. The Court preliminarily approves the class action settlements as set forth in the
3 Joint Stipulation of Class Action and PAGA Settlement and Release of Claims (“McDowell
4 Agreement”) attached as Exhibit A to the Declaration of Geralyn L. Skapik and the Class Action
5 Settlement Agreement (“Zamora/Taylor/Luna/Poston Agreement”) attached as Exhibit 1 to the
6 Declaration of Kyle Nordrehaug in Support of Plaintiffs’ Motion for Preliminary Approval of
7 Class Action Settlement. Collectively, the McDowell Agreement and the
8 Zamora/Taylor/Luna/Poston Agreement are referred to herein as the “Settlement”. The granting
9 of the motion is based on the Court’s determination that the Settlement is within the range of
10 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil
11 Procedure and California Rules of Court, rule 3.769.

12 2. This Order incorporates by reference the definitions in the McDowell Agreement
13 and the Zamora/Taylor/Luna/Poston Agreement, and all terms defined therein shall have the same
14 meaning in this Order.

15 3. The Maximum Settlement Amount in the McDowell Agreement is One Million
16 Dollars (\$1,000,000) and Gross Settlement Amount in the Zamora/Taylor/Luna/Poston Agreement
17 is One Million Four Hundred Fifty-Five Thousand Dollars (\$1,455,000), which is a combined
18 amount of Two Million Four Hundred Fifty-Five Thousand Dollars (\$2,455,000) (“Settlement
19 Fund”). It appears to the Court on a preliminary basis that the settlement amount and terms are
20 fair, adequate and reasonable as to all potential Class Members when balanced against the
21 probable outcome of further litigation and the significant risks relating to certification, liability and
22 damages issues. It further appears that investigation and research have been conducted such that
23 counsel for the Parties are able to reasonably evaluate their respective positions. It further appears
24 to the Court that settlement at this time will avoid substantial additional costs by all Parties, as
25 well as avoid the delay and risks that would be presented by the further prosecution of the Action.
26 It further appears that the Settlement has been reached as the result of serious and non-collusive,
27 arms-length negotiations. The Court therefore preliminarily finds that the Settlement is fair,
28

PRELIMINARY APPROVAL ORDER

adequate, and reasonable when balanced against the probable outcome of further litigation and the significant risks relating to certification, liability, and damages issues.

4. The Settlement specifies for an attorneys' fees award not to exceed one-third (1/3) of the Settlement Fund, an award of litigation expenses incurred, not to exceed \$82,000.00, and proposed Class Representative Service Payments to the Plaintiffs in an amount not to exceed \$10,000 to each Plaintiff. The Court will not approve the amount of attorneys' fees and costs, nor the amount of any service award, until the Final Approval Hearing. Plaintiffs will be required to present evidence supporting these requests, including lodestar, prior to final approval.

5. The Court recognizes that Plaintiffs and Defendants stipulate and agree to certification of a class for settlement purposes only. This stipulation will not be deemed admissible in this or any other proceeding should this Settlement not become final. For settlement purposes only, the Court conditionally certifies the following Class: "all current and former non-exempt employees of Defendant Penske Logistics LLC and/or Defendant Penske Truck Leasing Co., L.P. employed at any time during the Class Period." The Class Period is from January 31, 2016 through and including April 6, 2022.

6. The Court concludes that, for settlement purposes only, the Class meets the requirements for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class is impracticable; (b) common questions of law and fact predominate, and there is a well-defined community of interest amongst the members of the Class with respect to the subject matter of the litigation; (c) the claims of the Plaintiffs are typical of the claims of the members of the Class; (d) the Plaintiffs can fairly and adequately protect the interests of the members of the Class; (e) a class action is superior to other available methods for the efficient resolution of this controversy; and (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiffs are adequate representatives of the Class.

7. The Court provisionally appoints Plaintiffs as the representatives of the Class. The Court provisionally appoints the law firms of the Skapik Law Group, Blumenthal Nordrehaug

1 Bhowmik De Blouw LLP, GrahamHollis, APC, and Lawyer for Justice, PC to serve as Class
2 Counsel for the Class.

3 8. The Court hereby approves, as to form and content, the Notice of Proposed
4 Settlement of Class Action and Hearing Date for Final Court Approval (“Class Notice”) attached
5 to the Zamora/Taylor/Luna/Poston Agreement as Exhibit A and to the McDowell Agreement as
6 Exhibit 1. The Class Notice is intended to be a consolidated Class Notice to the Class regarding
7 the Settlement. The Court finds that the Class Notice appears to fully and accurately inform the
8 Class of all material elements of the proposed Settlement, of the Class Members’ right to be
9 excluded from the Class by submitting a written opt-out request, and of each member’s right and
10 opportunity to object to the Settlement. The Court further finds that the distribution of the Class
11 Notice substantially in the manner and form set forth in the Settlement and this Order meets the
12 requirements of due process, is the best notice practicable under the circumstances, and shall
13 constitute due and sufficient notice to all persons entitled thereto. The form and method of giving
14 notice complies fully with the requirements of California Code of Civil Procedure § 382,
15 California Rules of Court §§ 3.766 and 3.769, the California and United States Constitutions, and
16 other applicable law. The Court orders the mailing of the Class Notice by first class mail,
17 pursuant to the terms set forth in the Settlement.

18 9. The Court hereby appoints Simpluris as Settlement Administrator. No later than
19 fourteen (14) calendar days after preliminary approval of the Settlement by the Court, Defendants
20 shall provide the Settlement Administrator with the Class Data. The Settlement Administrator will
21 perform address updates and verifications as necessary prior to the mailing of the Class Notice.
22 Using best efforts to mail it as soon as possible, and in no event later than 14 days after receiving
23 the Class information spreadsheet, the Settlement Administrator will mail the Class Notice to all
24 Class Members via first-class U.S. Mail.

25 10. The Court hereby preliminarily approves the proposed procedure for exclusion
26 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
27 from the Class as provided in the Class Notice by following the instructions for requesting
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1 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
2 postmarked by no later than the Response Deadline, which shall be forty-five (45) days after the
3 mailing of the Class Notice. Any such person who chooses to opt out of and be excluded from the
4 Class will not be entitled to any recovery under the Settlement and will not be bound by the
5 Settlement or have any right to object, appeal or comment thereon, except that all Aggrieved
6 Employees will be subject to the release of the Released PAGA Claims. Class Members who have
7 not requested exclusion shall be bound by all determinations of the Court, the Settlement and the
8 Judgment. A request for exclusion may only opt out that particular individual, and any attempt to
9 affect an opt out of a group, class, or subclass of individuals is not permitted and will be deemed
10 invalid.

11 11. Any Class Member who has not opted out may object or express the Class
12 Member's views regarding the Settlement, and may present evidence and file briefs or other papers
13 that may be proper and relevant to the issues to be heard and determined by the Court as provided
14 in the Notice. Class Members will have until the Response Deadline to submit their written
15 objections and/or a notice of intention to appear at the hearing to the Settlement Administrator in
16 accordance with the instructions in the Class Notice. Any Class Member who does not timely and
17 validly file written Objections and a notice of intent to appear shall not be permitted to present his,
18 her, or its Objections at the Final Approval and Fairness Hearing.

19 12. A Final Approval Hearing shall be held before this Court on _____
20 _____ at _____ in Department 26 of the San Bernardino County Superior Court to
21 determine all necessary matters concerning the Settlement, including: whether the proposed
22 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
23 adequate and reasonable and should be finally approved by the Court; whether the Final Approval
24 Order and Judgment should be entered herein; whether the plan of allocation contained in the
25 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to
26 finally approve attorneys' fees and costs, the service award, and the expenses of the Settlement
27 Administrator. Plaintiffs' consolidated motion for final approval and two (2) separate motions for
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1 attorneys' fees, costs and service awards as to the McDowell Agreement and the
2 Zamora/Taylor/Luna/Poston Agreement shall all be heard at the Final Approval Hearing. All
3 papers in support of the motion for final approval and the motions for attorneys' fees, costs and
4 service awards shall be filed with the Court and served on all counsel no later than sixteen (16)
5 court days before the hearing.

6 13. Neither the Settlement nor any exhibit, document, or instrument delivered
7 thereunder shall be construed as a concession or admission by Defendants in any way that the
8 claims asserted have any merit or that this Action was properly brought as a class or representative
9 action, and shall not be used as evidence of, or used against Defendants as, an admission or
10 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
11 omission by Defendants or with respect to the truth of any allegation asserted by any person.
12 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
13 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
14 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
15 deemed to be evidence for any purpose adverse to the Defendants, including, but not limited to,
16 evidence of a presumption, concession, indication or admission by Defendants of any liability,
17 fault, wrongdoing, omission, concession or damage.

18 14. In the event the Settlement does not become effective in accordance with the terms
19 of the McDowell Agreement and the Zamora/Taylor/Luna/Poston Agreement, or the Settlement is
20 not finally approved, or is terminated, canceled or fails to become effective for any reason, this
21 Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their
22 respective positions as of immediately before November 10, 2021, and expressly reserve their
23 respective rights regarding the prosecution and defense of this Action, including all available
24 defenses and affirmative defenses, and arguments that any claim in the Action could not be
25 certified as a class action and/or managed as a representative action. In such an event, the Court's
26 orders regarding the Settlement, including this Order, shall not be used or referred to in litigation
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1 for any purpose. Nothing in this paragraph is intended to alter the terms of the Settlement with
2 respect to the effect of the Settlement if it is not approved.

3 15. The Court reserves the right to adjourn or continue the date of the final approval
4 hearing without further notice to Class Members, and retains jurisdiction to consider all further
5 applications arising out of or connected with the proposed Settlement.

6 16. Pending the Final Approval Hearing, all proceedings in this action other than
7 proceedings necessary to carry out or enforce the terms and conditions of the Settlement and the
8 Order, are stayed and all trial and related pre-trial dates are vacated, subject to further orders of the
9 Court at the Final Approval Hearing.

10 **IT IS SO ORDERED.**

11 Dated: _____

HON. DAVID COHN
JUDGE, SUPERIOR COURT OF CALIFORNIA

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PRELIMINARY APPROVAL ORDER

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

ERIC D. MCDOWELL, an individual; AARON L. STUBBS, an individual; LEON C. WILLS, and individual, and on behalf of all persons similarly situated,

Plaintiffs,

v.

PENSKE TRUCK LEASING CO., L.P.; and DOES 1 through 10 inclusive,

Defendants.

LADELL TAYLOR, as an individual, on behalf of himself and all persons similarly situated,

Plaintiff,

v.

PENSKE LOGISTICS LLC, a Delaware limited liability company authorized to do business in California; PENSKE TRUCK LEASING CO., L.P., a Delaware limited partnership authorized to do business in California; and DOES 1 through 50 inclusive,

Defendants.

ANGEL ZAMORA, GABRIEL LOAIZA and JORGE GUILLÉN, individuals, on behalf of themselves and on behalf of all persons similarly

Case No. CIVDS2012273

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. David Cohn
Dept: S26

Action Filed: May 29, 2020
Trial Date: None

FINAL APPROVAL ORDER AND JUDGMENT

1 situated,

2 Plaintiffs,

3 vs.

4 PENSKE TRUCK LEASING CO., L.P., a
5 Limited Partnership,

6 Defendant.

7 MARK LUNA, an individual, on behalf of
8 himself and on behalf of all persons similarly
9 situated,

10 Plaintiff,

11 v.

12 PENSKE LOGISTICS LLC, a Limited Liability
13 Company; and DOES 1 through 50, Inclusive,

14 Defendants.

15 PHIL POSTON, individually, and on behalf of
16 other members of the general public similarly
17 situated;

18 Plaintiff,

19 vs.

20 PENSKE LOGISTICS LLC, an unknown
21 business entity; PENSKE TRUCK LEASING
22 CO., L.P., an unknown business entity; and
23 DOES 1 through 100, inclusive,

24 Defendants.

1 The motion of Plaintiffs Eric D. McDowell, Aaron L. Stubbs, Leon C. Willis, Angel
2 Zamora, Gabriel Loaiza, Jorge Guillen, Ladell Taylor, Mark Luna, and Phil Poston (collectively,
3 “Plaintiffs”) for an order finally approving the consolidated Settlement in the form of the Joint
4 Stipulation of Class Action and PAGA Settlement and Release of Claims (“McDowell
5 Agreement”) and the Class Action Settlement Agreement (“Zamora/Taylor/Luna/Poston
6 Agreement”) with Defendants Penske Truck Leasing Co., L.P. and Penske Logistics LLC
7 (collectively “Defendants”), and the two (2) motions for attorneys’ fees and costs, service
8 payments, duly came on for hearing on [REDACTED] before the Honorable David Cohn.

9
10 **I.**

11 **FINDINGS**

12 Based on the oral and written argument and evidence presented in connection with the
13 motion, the Court makes the following findings:

14 1. All terms used herein shall have the same meaning as defined in the McDowell
15 Agreement and the Zamora/Taylor/Luna/Poston Agreement. Collectively, the McDowell
16 Agreement and the Zamora/Taylor/Luna/Poston Agreement are referred to herein as the
17 “Settlement”.

18 2. This Court has jurisdiction over the subject matter of this litigation pending before
19 the California Superior Court for the County of San Bernardino, and over all Parties to this
20 litigation, including the Class.

21 3. Based on a review of the papers submitted by Plaintiffs and a review of the
22 applicable law, the Court finds that Maximum Settlement Amount in the McDowell Agreement is
23 One Million Dollars (\$1,000,000) and Gross Settlement Amount in the Zamora/Taylor/Luna
24 /Poston Agreement is One Million Four Hundred Fifty-Five Thousand Dollars (\$1,455,000),
25 which is a combined amount of Two Million Four Hundred Fifty-Five Thousand Dollars
26 (\$2,455,000) (“Settlement Fund”) and the terms set forth of the consolidated Settlement are fair,
27 reasonable, and adequate.

1 4. The Court further finds that the Settlement was the result of arm's length
2 negotiations conducted after Class Counsel had adequately investigated the claims and became
3 familiar with the strengths and weaknesses of those claims. In particular, the amount the
4 Settlement, the significant risks relating to certification, liability, and damages issues, and the
5 assistance of an experienced mediator in the settlement process, among other factors, support the
6 Court's conclusion that the Settlement is fair, reasonable, and adequate.

7 **Preliminary Approval of the Settlement**

8 5. On April 6, 2022, the Court granted preliminary approval of the Settlement. At this
9 same time, the Court approved conditional certification of the Class for settlement purposes only.

10 **Notice to the Class**

11 6. In compliance with the Preliminary Approval Order, the Class Notice was mailed
12 by first class mail to members of the Class at their last known addresses on or about
13 _____. Mailing of the Class Notice to their last known addresses was the best notice
14 practicable under the circumstances and was reasonably calculated to communicate actual notice
15 of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
16 Members fully and accurately informed the Class Members of all material elements of the
17 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion
18 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied
19 fully with the requirements of California Rule of Court 3.769, laws of the State of California, the
20 United States Constitution, due process and other applicable law. The Class Notice fairly and
21 adequately described the Settlement and provided Class Members adequate instructions and a
22 variety of means to obtain additional information.

23 7. The deadline for opting out of the Class or submitting objections to the Settlement
24 was _____. There was an adequate interval between notice and the deadline to permit
25 Class Members to choose what to do and act on their decision. A full opportunity has been
26 afforded to the Class Members to participate in this hearing, and all Class Members and other
27 persons wishing to be heard have been heard. Class Members also have had a full and fair
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1 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
2 Court determines that all Class Members who did not timely and properly submit a request for
3 exclusion are bound by the Settlement and this Final Approval Order and Judgment.

4 **Fairness Of Settlement**

5 8. The Settlement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.* 48
6 Cal.App.4th 1794, 1801 (1996).

7 a. The Settlement was reached through arm's-length bargaining between the
8 Parties, first during an all-day mediation with Lou Marlin, a well-respected mediator with
9 considerable experience mediating wage and hour class actions, and then a second all-day
10 mediation with Lou Marlin. There has been no collusion between the parties in reaching the
11 proposed settlement.

12 b. Plaintiffs' investigation and discovery have been sufficient to allow the
13 Court and counsel to act intelligently.

14 c. Counsel for the Parties are experienced in similar employment class action
15 litigation. All counsel recommended approval of the Settlement.

16 d. The percentage of objectors and requests for exclusion is small. [REDACTED]
17 objections were received. [REDACTED] requests for exclusion were received.

18 e. The participation rate was high. [REDACTED] Class Members will be mailed a
19 settlement payment, representing [REDACTED] % of the overall Class.

20 9. The consideration to be given to the Class Members under the terms of the
21 Settlement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
22 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
23 Members' claims, given the uncertainties and significant risks of the litigation and the delays
24 which would ensue from continued prosecution of the Action.

25 10. The Settlement is approved as fair, adequate and reasonable and in the best interests
26 of the Class Members.

27 **Attorneys' Fees and Costs**

1 11. An award of \$333,333.00 to Skapik Law Group of reasonable attorneys' fees and
2 the additional amount to reimburse actual litigation costs incurred not to exceed \$12,000.00, is
3 reasonable and adequate. An award of \$485,000.00 collectively to Blumenthal Nordrehaug
4 Bhowmik De Blouw LLP (BNBD), GrahamHollis, APC (GH), and Lawyer for Justice, PC. (LFJ),
5 to be split 45% to BNBD; 45% to GH; and, 10% to LFJ, and the additional amount to reimburse
6 actual litigation costs incurred not to exceed \$70,000.00, is reasonable and adequate.

7 **Class Representative Service Payments**

8 12. The Settlement provides for a Class Representative Service Payment of not more
9 than \$10,000 to each of the Plaintiffs, subject to the Court's approval. The Court finds that Class
10 Representative Service Payments in the amount of \$10,000.00 to each of the Plaintiffs is
11 reasonable in light of the risks and burdens undertaken by the Plaintiffs in the litigation, for the
12 time and effort in bringing and prosecuting this matter on behalf of the Class, and for the
13 execution of a general release.

14 **Settlement Administration Expenses**

15 13. The Settlement Administrator shall calculate and administer the payments to be
16 made to the Class Members, transmit payment for attorneys' fees and costs to Class Counsel,
17 transmit the Class Representative Service Payments to the Plaintiffs, distribute the PAGA
18 Payment, issue any required tax reporting forms, calculate withholdings and perform the other
19 remaining duties set forth in the Settlement. The Settlement Administrator has documented
20 \$ [REDACTED] in fees and expenses, and this amount is reasonable in light of the work performed by
21 the Settlement Administrator. These Settlement Administration Expenses shall be allocated 40%
22 to the McDowell Agreement and 60% to the Zamora/Taylor/Luna/Poston Agreement.

23 **PAGA Settlement**

24 14. There are two proposed payments relating to the claim for penalties under the
25 Private Attorney Generals Act ("PAGA"). The first PAGA Payment from the McDowell
26 Agreement is for \$75,000 to be allocated \$56,250 to the California Labor and Workforce
27 Development Agency ("LWDA") and \$18,750 will be part of the Net Settlement Amount and
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distributed to the Class. The second PAGA Payment from the Zamora/Taylor/Luna/Poston Agreement is for \$30,000 to be allocated \$22,500 to the LWDA and \$7,500 will be distributed to the Aggrieved Employees based on their respective pay periods worked during the applicable period. “Aggrieved Employees” means (i) all individuals who were employed by Penske Logistics LLC in California as non-exempt employees at any time during the period October 28, 2019 to April 6, 2022 (the “PL Aggrieved Employees”), and (ii) all individuals who were employed by Penske Truck Leasing Co., L.P. in California as non-exempt employees at any time during the period September 25, 2018 to April 6, 2022 (the “PTL Aggrieved Employees”). The PAGA Payment from the Zamora/Taylor/Luna/Poston Agreement shall be allocated to all Aggrieved Employees regardless of whether they request exclusion. These PAGA Payments are fair, reasonable and adequate.

II.

ORDERS

Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

1. The certification of the Class for the purposes of settlement is confirmed. The Class is defined as follows:

All current and former non-exempt employees of Defendant Penske Logistics LLC and/or Defendant Penske Truck Leasing Co., L.P. employed at any time during the Class Period.

The Class Period is from January 31, 2016 through and including April 6, 2022.

2. All persons who meet the foregoing definition are members of the Class, except for those individuals who filed a valid request for exclusion (“opt out”) from the Class. [INSERT REFERENCE TO IDENTIFY ANY OPT OUTS].

3. The Settlement is hereby finally approved as fair, reasonable, adequate, and in the best interest of the Class.

1 4. Class Counsel are awarded attorneys' fees in the amount of \$333,333.00 to Skapik
2 Law Group and \$485,000.00 collectively to Blumenthal Nordrehaug Bhowmik De Blouw LLP
3 (BNBD), GrahamHollis, APC (GH), and Lawyer for Justice, PC. (LFJ), to be split 45% to BNBD;
4 45% to GH; and, 10% to LFJ. The Skapik Law Group are awarded costs in the amount of
5 \$ _____ to be paid from the McDowell Agreement. Blumenthal Nordrehaug Bhowmik De
6 Blouw LLP (BNBD), GrahamHollis, APC (GH), and Lawyer for Justice, PC. (LFJ) are awarded
7 costs in the amount of \$ _____ to be paid from the Zamora/Taylor/Luna/Poston
8 Agreement, which shall be distributed in accordance with the Zamora/Taylor/Luna/Poston
9 Agreement. Class Counsel shall not seek or obtain any other compensation or reimbursement
10 from Defendants, Plaintiffs or members of the Class.

11 5. The payment of the Class Representative Service Payments in the amount of
12 \$ 10,000.00 to each of the Plaintiffs is approved and is to be distributed in accordance with the
13 McDowell Agreement and the Zamora/Taylor/Luna/Poston Agreement.

14 6. The payment of \$ _____ to the Settlement Administrator for their fees and
15 expenses is approved, which shall be allocated 40% to the McDowell Agreement and 60% to the
16 Zamora/Taylor/Luna/Poston Agreement.

17 7. The PAGA Payments of \$75,000 and \$30,000 are approved and are to be
18 distributed in accordance with the McDowell Agreement and the Zamora/Taylor/Luna/Poston
19 Agreement.

20 8. The McDowell Agreement and the Zamora/Taylor/Luna/Poston Agreement and
21 this Settlement are not an admission by Defendants, nor is this Final Approval Order and
22 Judgment a finding, of the validity of any claims in the Action or of any wrongdoing by
23 Defendants or that this Action is appropriate for class treatment (other than for settlement
24 purposes). Neither this Final Approval Order and Judgment, the McDowell Agreement, the
25 Zamora/Taylor/Luna/Poston Agreement, nor any document referred to herein, nor any action
26 taken to carry out the Settlement is, may be construed as, or may be used as an admission by or
27 against Defendants of any fault, wrongdoing or liability whatsoever. The entering into or carrying
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1 out of the Settlement, and any negotiations or proceedings related thereto, shall not in any event be
2 construed as, or deemed to be evidence of, an admission or concession with regard to the denials
3 or defenses by Defendants. Notwithstanding these restrictions, Defendants may file in the Action
4 or in any other proceeding this Final Approval Order and Judgment, the Settlement, or any other
5 papers and records on file in the Action as evidence of the settlement to support a defense of res
6 judicata, collateral estoppel, release, or other theory of claim or issue preclusion or similar defense
7 as to the Released Class.

8 9. Notice of entry of this Final Approval Order and Judgment shall be given to all
9 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
10 and Judgment shall be posted as set forth in the Class Notice to the Class. It shall not be necessary
11 to send notice of entry of this Final Approval Order and Judgment to individual Class Members.

12 10. If the Settlement does not become final and effective in accordance with the terms
13 of the Settlement, then this Final Approval Order and Judgment, and all orders entered in
14 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
15 revert to their respective positions as of immediately prior to November 10, 2021, and expressly
16 reserve their respective rights regarding the prosecution and defense of their respective actions,
17 including all available defenses and affirmative defenses, and arguments that any claim in the
18 action(s) could not be certified as a class action and/or managed as a representative action.

19 11. Within twenty-one (21) calendar days of the Effective Date, Defendants shall transmit
20 the Settlement Fund to the Settlement Administrator, and shall further transmit and the amount
21 necessary to pay Defendants' share of payroll taxes to the Settlement Administrator as provided
22 for in the Settlement. Neither Defendants nor any of the Released Parties shall have any further
23 liability for costs, expenses, interest, attorney's fees, or for any other charge, expense or liability,
24 except as provided by the McDowell Agreement and/or the Zamora/Taylor/Luna Agreement.

25
26 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

27
28

FINAL APPROVAL ORDER AND JUDGMENT

1 1. Final judgment is hereby entered in conformity with the McDowell Agreement and
2 the Zamora/Taylor/Luna/Poston Agreement and this Court’s Preliminary Approval Order. This
3 document shall constitute a final judgment pursuant to California Rule of Court 3.769(h).

4 2. Except as set forth in the McDowell Agreement and/or the
5 Zamora/Taylor/Luna/Poston Agreement and this Final Approval Order and Judgment, Plaintiffs,
6 and all members of the Class, shall take nothing in the Action.

7 3. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
8 exclusive and continuing jurisdiction to construe, interpret, implement and enforce the Settlement,
9 to hear and resolve any contested challenge to a claim for settlement benefits, and to supervise and
10 adjudicate any dispute arising from or in connection with the distribution of settlement benefits.

11 4. Each party shall bear its own attorneys’ fees and costs, except as otherwise
12 provided in the Settlement and in this Final Approval Order and Judgment.

13 5. Upon the Effective Date, each Settlement Member shall release Defendants and the
14 Released Parties, and each of them, from the Released Claims as set forth in the McDowell
15 Agreement. The “Released Claims” are all causes of action and factual or legal theories that were
16 alleged in the operative Second Amended Complaint or reasonably could have been alleged based
17 on the facts and legal theories contained in the operative Second Amended Complaint, including
18 all of the following claims for relief: (i) failure to pay wages due (including minimum wage,
19 straight wages, and overtime/premium wages); (ii) failure to provide proper meal periods and/or
20 proper premium payments in lieu of meals; (iii) failure to provide proper rest breaks and/or proper
21 premium payments in lieu of rest breaks; (iv) failure to provide accurate wage statements; (v)
22 failure to reimburse for business expenses; (vi) failure to pay wages timely during employment;
23 (vii) failure to pay wages timely at or after termination; (viii) failure to maintain necessary or
24 accurate payroll records and work schedules; (ix) unfair business practices; (x) civil penalties
25 under the Private Attorneys General Act (“PAGA”); (xi) any other claims or penalties under the
26 wage and hour laws pleaded in the Action; and (xii) all damages, penalties, interest and other
27 amounts recoverable under said causes of action under California and federal law, to the extent
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1 permissible, including but not limited to the California Labor Code as to the facts alleged in the
2 Action, the applicable Wage Orders as to the facts alleged in the proposed complaint, and the
3 California Unfair Competition Law. The period of the Release shall extend to the limits of the
4 Class Period.

5 6. Upon the Effective Date, each Participating Class Member shall release Defendants
6 and the Released Parties, and each of them, from the Released Class Claims as set forth in the
7 Zamora/Taylor/Luna Agreement. The “Released Class Claims” are all facts and legal theories that
8 were or reasonably could have been alleged based upon the Second Amended Consolidated
9 Complaint in the *McDowell* Action for the Class Period, or if not consolidated the operative
10 complaints in any/all of the Actions for their respective periods, including: (i) failure to pay wages
11 due (including minimum wages, straight wages, overtime/premium/double-time wages, rounding,
12 off-the-clock, pre- and post-liminary work, or miscalculation of the regular rate); (ii) failure to
13 provide proper meal periods and/or proper premium payments in lieu of meals; (iii) failure to
14 provide proper rest breaks and/or proper premium payments in lieu of rest breaks; (iv) failure to
15 provide accurate wage statements; (v) failure to reimburse for business expenses; (vi) failure to
16 pay wages timely during employment; (vii) failure to pay wages timely at or after termination;
17 (viii) failure to maintain necessary or accurate payroll records and work schedules; (ix) failure to
18 provide one day’s rest in seven/causing employees to work more than six days in seven; (x) unfair
19 business practices; (xi) civil penalties under the PAGA based on the facts and legal theories
20 alleged in the Second Amended Complaint; (xii) any other claims or statutory penalties under the
21 wage and hour laws pleaded in the Actions; and (xiii) all damages, statutory penalties, interest and
22 other amounts recoverable under said causes of action under California and federal law, to the
23 extent permissible, including but not limited to the California Labor Code as to the facts alleged in
24 the operative complaints in the Actions for their respective periods, the applicable Wage Orders as
25 to the facts alleged in the operative complaints in the Actions for their respective periods, and the
26 California Unfair Competition Law as to the facts alleged in the operative complaints in the
27 Actions for their respective periods. Claims for wrongful termination are excluded from the

1 Released Claims, except with respect to the Plaintiffs. (“Released Class Claims”). Claims for
2 vested benefits, unemployment insurance, disability, social security, and workers' compensation,
3 are expressly excluded from the Released Class Claims. The Released Class Claims are released
4 against all Released Parties. The res judicata effect of the Judgment will be the same as that of the
5 Release.

6 7. Upon the Effective Date, Defendants shall receive a release from the State of
7 California of all PAGA claims for civil penalties under California Labor Code Sections 2698 et.
8 seq., based on the facts and legal theories alleged in the Second Amended Complaint, or if not
9 consolidated, the operative complaints in any/all of the Actions which occurred during the
10 respective PAGA Period (“Released PAGA Claims”), which include the following alleged
11 violations: (i) failure to pay wages due (including minimum wages, straight wages,
12 overtime/premium/double-time wages, rounding, off-the-clock, pre- and post-liminary work, or
13 miscalculation of the regular rate); (ii) failure to provide proper meal periods and/or proper
14 premium payments in lieu of meals; (iii) failure to provide proper rest breaks and/or proper
15 premium payments in lieu of rest breaks; (iv) failure to provide accurate wage statements; (v)
16 failure to reimburse for business expenses; (vi) failure to pay wages timely during employment;
17 (vii) failure to pay wages timely at or after termination; (viii) failure to maintain necessary or
18 accurate payroll records and work schedules; (ix) failure to provide one day’s rest in seven/causing
19 employees to work more than six days in seven; (x) retaliation against employees who make good
20 faith complaints about unpaid wages; (xi) any other claims for civil penalties premised on the
21 wage and hour laws pleaded in the operative complaints in the Actions. Claims for vested
22 benefits, unemployment insurance, disability, social security, and workers' compensation, are
23 expressly excluded from the Released Claims. The Released PAGA Claims are released against all
24 Released Parties. The res judicata effect of the Judgment will be the same. The Released PAGA
25 Claims are released against all Released Parties. The release of the Released PAGA Claims shall
26 be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee
27 submitted a request for an exclusion from the Class.

1 8. Upon the Effective Date, Plaintiffs generally, fully and finally release and
2 discharge the Released Parties from any and all the Plaintiffs' Released Claims, as more fully set
3 forth in the McDowell Agreement and the Zamora/Taylor/Luna/Poston Agreement.

4
5 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

6
7 Dated: _____

8
9 HON. DAVID COHN
JUDGE, SUPERIOR COURT OF CALIFORNIA