

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
THOMAS R. KAUFMAN, Cal. Bar No. 177936
2 tkaufman@sheppardmullin.com
RAYMOND J. NHAN, Cal. Bar No. 306696
3 rnhan@sheppardmullin.com
1901 Avenue of the Stars, Suite 1600
4 Los Angeles, California 90067-6055
Telephone: 310.228.3700/Facsimile: 310.228.3701

5 Attorneys for Defendants
6 GLOBAL TRUSS AMERICA, LLC, ADJ PRODUCTS, LLC,, ACCLAIM
LIGHTING, LLC and ELATION LIGHTING, INC.

7 MOON & YANG, APC
8 KANE MOON (SBN 249834)
kane.moon@moonyanglaw.com
9 LILIT TER-ASTVATSATRYAN (SBN 320389)
lilit@moonyanglaw.com
10 1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
11 Telephone: (213) 232-3128/Facsimile: (213) 232-3125

12 Attorneys for Plaintiff
MIGUEL AGUILA

14 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
15 **COUNTY OF LOS ANGELES – SPRING STREET**

16 MIGUEL AGUILA, individually, and on
behalf of all others similarly situated,

17 Plaintiff,

18 vs.

19 GLOBAL TRUSS AMERICA, LLC, a limited
20 liability company; and DOES 1 through 10,
inclusive,

21 Defendants.
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Case No. 20STCV39267

**Assigned to the Honorable Elihu Berle
Department 6**

**STIPULATION OF CLASS SETTLEMENT
AND RELEASE**

Complaint Filed: October 29, 2020

1 This Stipulation of Class Settlement and Release (“Stipulation of Settlement” or
2 “Settlement Agreement”) is entered into by and among Plaintiff Miguel Aguila for himself and as
3 representative of a proposed settlement class, and Defendants Global Truss America, LLC, ADJ
4 Products, LLC, Acclaim Lighting LLC, and Elation Lighting, Inc. (“Defendants”), and are subject
5 to the terms and conditions herein and the approval of the Court. Plaintiffs and Defendants are
6 referenced collectively herein as “the Parties.”

7 **I. BACKGROUND AND RECITALS**

8 1. This action challenges alleged unlawful wage and hour practices by Defendants
9 against non-exempt employees of multiple entities whom Plaintiff asserted were joint employers.
10 The alleged unlawful practices included alleged failure to pay for all hours worked, failure to
11 provide meal and rest periods, failure to provide accurate wage statements, and failure to pay
12 timely final wages, among others. Plaintiff amended the original complaint to assert claims under
13 the Labor Code Private Attorneys General Act (“PAGA”) derivative of the same alleged Labor
14 Code violations. Plaintiff also amended his complaints to add Acclaim Lighting LLC, as DOE 1,
15 American D.J. Supply Inc., as DOE 2, ADJ Products, LLC, as DOE 3, Elation Lighting, Inc., as
16 DOE 4. Defendants contend that the only proper employer of Plaintiff was Global Truss America,
17 LLC (“Global Truss”) and the other Defendants that were added as DOE defendants were not
18 properly named as joint employer defendants.

19 2. After the parties undertook some preliminary discovery and discussed their
20 differing views on the joint employer question, the parties agreed to attempt to mediate the case on
21 January 13, 2022 before an experienced mediator Louis Marlin, Esq. On January 31, 2022, the
22 parties agreed to a mediator’s proposal for a combined class and PAGA settlement, subject to
23 court approval, as documented in this settlement agreement.

24 3. Notwithstanding Defendants’ agreement to all terms of this settlement as set forth
25 herein, Defendants deny any liability or wrongdoing of any kind associated with the claims in this
26 action and deny that any entity other than Global Truss employed Plaintiff. Defendants contend,
27 among other things, that they have at all relevant times fully complied with the California Labor
28 Code and all applicable California wage and hour laws as they apply to their non-exempt

1 employees.

2 4. The Parties wish to fully, finally, and forever settle, compromise, and discharge all
3 disputes and claims that exist between them as alleged in this action. To achieve the agreed-upon
4 release of claims against Defendants and the other "Releasees" as defined in Paragraph 5, the
5 Parties acknowledge that this Stipulation of Settlement is intended to include all Released Class
6 Claims that were or could have been alleged in this action, as more fully described in Paragraph 49
7 of this Stipulation of Settlement.

8 5. The Parties intend this Stipulation of Settlement to constitute a full and complete
9 settlement and release of all claims described in Paragraph 49 of this Stipulation of Settlement.
10 That release shall include in its effect not only Defendants, but also their respective affiliates,
11 subsidiaries, parent companies, predecessor entities, successor entities, related companies,
12 partners, officers, directors, managers, servants, agents, employees, former employees,
13 representatives, and attorneys, past or present, and all persons acting under, by, though, or in
14 concert with any of them (collectively, the "Releasees").

15 **II. DEFINITIONS**

16 6. "Class Counsel" means Moon & Yang, APC.

17 7. "Class Counsel Award" means such award of fees, costs, and litigation expenses as
18 the Court may authorize to be paid to Class Counsel for the services they have rendered and will
19 render to Plaintiff and the Settlement Class as defined herein.

20 8. "Class Member" means any individual who worked for any of the Defendants in
21 the State of California as a non-exempt hourly employee between December 22, 2017 and January
22 31, 2022.

23 9. "Class Period" means the period from December 22, 2017, through January 31,
24 2022.

25 10. "Class Representative" means named Plaintiff Miguel Aguila.

26 11. "Defendants" mean Acclaim Lighting LLC, American D.J. Supply Inc., ADJ
27 Products, LLC, Elation Lighting, Inc., and Global Truss America, LLC.

28 12. "Class Representative Service Payment" means the amount that the Court

1 authorizes to be paid to Plaintiff Miguel Aguila in addition to his individual settlement payment.

2 13. "Court" means the Court in which Plaintiff seeks approval of this Stipulation of
3 Settlement.

4 14. "*Aguila* Complaint" means Plaintiff Miguel Aguila's First Amended Complaint
5 filed on January 7, 2021, which asserts the following causes of action: (1) failure to pay
6 minimum and regular rate wages; (2) failure to pay overtime wages; (3) failure to provide
7 compliant meal periods and pay meal period premiums; (4) failure to provide compliant rest
8 periods and pay rest period premiums; (5) failure to timely pay all wages upon termination; (6)
9 failure to provide accurate wage statements; (7) unfair business practices; and (8) civil penalties
10 under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Lab. Code, § 2698, et
11 seq.

12 15. "Gross Fund Value" or "GFV" means the aggregate amount of THREE
13 HUNDRED THIRTY-FIVE THOUSAND DOLLARS (\$335,000.00) that is being paid as a result
14 of the resolution of the *Aguila* Complaint.

15 16. "Net Fund Value" or "NFV" means the Gross Fund Value less the Class Counsel
16 Award, Class Representative Service Payment, PAGA Allocation, and Settlement Administration
17 Costs.

18 17. "Notice" means the mailing to Class Members including the Notice of Class Action
19 and PAGA Settlement in a form attached hereto as Exhibit A and approved by the Court.

20 18. "PAGA Allocation" shall be the sum of FORTY THOUSAND DOLLARS
21 (\$40,000.00) which shall be allocated to the settlement of the PAGA claims asserted in the
22 Complaint and any other PAGA claims arising from the same underlying factual allegations. The
23 PAGA Allocation shall be divided only among individuals who worked for one or more of the
24 Defendants on or after October 12, 2019.

25 19. "Response Deadline" means the last day for Class Members to opt out of or object
26 to the Settlement, or to dispute the calculation of their settlement payments, which shall be sixty
27 (60) days after the Notice mailing date.

28 20. "Settlement Class Member" means all Class Members who do not timely and

1 validly request exclusion from the Class. There shall be no right to opt-out of the PAGA portion
2 of the settlement.

3 **III. TERMS OF SETTLEMENT**

4 **A. Overview of Payment Structure**

5 21. This settlement is made on a non-reversionary basis. The settlement shall consist
6 of a Gross Fund Value, comprised of a Net Fund Value for the class, the Class Counsel Award,
7 PAGA Allocation, Settlement Administration Costs, and the Class Representative Service
8 Payment. Further specifics are provided below.

9 22. Each Settlement Class Member who does not request exclusion and any member of
10 the “aggrieved employees” who will share in the PAGA Allocation shall automatically be mailed a
11 settlement check. There will be no claims process.

12 **B. Gross Fund Value**

13 23. Defendants shall pay a gross sum of THREE HUNDRED THIRTY-FIVE
14 THOUSAND DOLLARS (\$335,000.00). The Gross Fund Value shall be used to fund the
15 settlement of class claims, the Class Counsel Award, Settlement Administration Costs, the PAGA
16 Allocation, and the Class Representative Service Payment. The settlement payments are not being
17 made for any other purpose and will not be construed as compensation for purposes of
18 determining eligibility for any health and welfare benefits or unemployment compensation.

19 24. Defendants shall be responsible for paying any appropriate and lawfully required
20 employer-side payroll taxes arising from the portion of the class member settlement payments that
21 is attributable to wages, as set forth in Paragraph 39, and any such amounts shall not be paid from
22 the Gross Fund Value.

23 **1. Amounts Paid from the Gross Fund Value**

24 **a) Class Counsel Award**

25 25. Class Counsel intend to apply the Court for approval of a payment of no more than
26 one-third of the GFV (\$111,666.67) for reasonable attorneys’ fees pursuant to the common fund
27 doctrine and California Labor Code §§ 218.5 for the work they performed on behalf of the class
28 plus no more than \$20,000.00 in actual documented litigation expenses. Any Court-approved

1 award of fees and expenses to Class Counsel shall be paid from the GFV. If the Court awards a
2 lower amount of fees or expenses than Class Counsel seek, the difference between the amount
3 Class Counsel seek and the amount awarded shall be allocated to the NFV and will not revert to
4 Defendants.

5 **b) Class Representative Service Payment**

6 26. The Class Representative intends to apply to the Court for a Class Representative
7 Service Payment not to exceed \$7,500.00, which shall be in addition to the share of the NFV to
8 which the Class Representative would otherwise be entitled as a Settlement Class Member. Any
9 such award approved by the Court shall be paid from the GFV. If the Court awards a smaller
10 Service Payment, the difference between the amount he seeks and the amount awarded shall be
11 allocated to the NFV and will not revert to Defendants.

12 **c) Settlement Administration Costs**

13 27. All costs of notice and claims administration shall be paid from the GFV. The
14 parties agree to use Phoenix Class Action Administration Solutions as Settlement Administrator.
15 The Settlement Administrator has provided a not exceed cost of \$6,750.00 to administer the
16 settlement, which administration shall include, without limitation, setting up a website for Class
17 Members to obtain information about the settlement and to download important documents,
18 mailing Notices in English and Spanish, reminder postcards in English and Spanish, calculating
19 individual settlement payments, processing objections and opt-outs, performing necessary skip
20 traces on Notices and reminder postcards returned as undeliverable, mailing Class Member
21 settlement checks, issuing any required tax reporting forms, and providing weekly status reports to
22 Counsel for the Parties, among other tasks as set forth in this Stipulation.

23 **d) PAGA Allocation**

24 28. FORTY THOUSAND DOLLARS (\$40,000.00) of the GFV shall be allocated to
25 the settlement of the PAGA claims asserted in the *Aguila* Complain. 75% of this sum shall be sent
26 to the Labor Workforce Development Agency ("LWDA") and 25% shall be included in the NFV
27 to be divided proportionally among the non-exempt employees who worked for any of the
28 Defendants between October 12, 2019 and January 31, 2022 ("the PAGA period"). Each

1 qualifying employee shall receive a share of the PAGA allocation based on the number of pay
2 periods in which he or she recorded any work hours during the PAGA period divided by the total
3 number of pay periods in which qualifying employees recorded any worked hours during the
4 PAGA period.

5 **2. Remaining Net Fund Value for Settlement Class Member**
6 **Payments**

7 29. The Net Fund Value shall be distributed to Settlement Class Members as set forth
8 below. NFV is GFV less Court approved Class Counsel fees and costs, Class Representative
9 Service Payment, 25% of the PAGA Allocation, and Settlement Administrator cost.

10 30. If it is later determined that the number of pay periods is more than 20% greater
11 than the 12,000 estimated by Defendant at the time of the Parties' informal pre-mediation
12 exchange of information, then Defendant shall, in its sole discretion, have the option to either: (1)
13 de-escalate the Settlement so that the Class Period ends on the date that the workweek count totals
14 14,400; or (2) permit the Class Period to be increased proportionally by the pay periods worked in
15 excess of 14,400 multiplied by the pay period value.

16 **3. Distribution of NFV to Class**

17 31. Each class member who does not request exclusion from the class settlement shall
18 receive a share of the NFV equal to the number of pay periods the non-exempt employee recorded
19 any work hours for any of the Defendants in California between December 22, 2017, and January
20 31, 2022. Settlement Payments to each Settlement Class Member will be calculated and
21 apportioned from the NFV based on the number of pay periods Settlement Class Member
22 worked during the Class Period. Specific calculations of individual settlement payments will be
23 made as follows:

24 a. The Settlement Administrator will calculate the number of pay periods
25 worked by each Settlement Class Member during the Class Period, the amount to be paid per
26 pay period.

27 b. Defendant's employee data will be presumed to be correct unless a
28 particular Settlement Class Member proves otherwise to the Settlement Administrator by

1 credible evidence.

2 c. The individual settlement payments will be determined by dividing the
3 NFV by the total number of pay periods for all Settlement Class Members, resulting in the pay
4 period value, and then multiplying the pay period value by the number of pay periods worked by
5 each Settlement Class Member.

6 32. During the pendency of this action, Global Truss entered into individual settlement
7 agreements with ten (10) of its then-current non-exempt employees in exchange for \$1,000. To
8 the extent that those ten individuals remain settlement class members, Defendants shall be entitled
9 to a credit up to \$1,000 against any portion of the NFV allocated to that settlement class member's
10 claim. Thus, if one class member's portion of the NFV were \$1,100, he would receive only \$100,
11 and if another class member's portion of the NFV were \$800, he would receive \$0 (although he
12 would still receive his portion of the PAGA Allocation). Defendant would be entitled to keep the
13 credited portion since it already paid that employee for a release of the same claims.

14 **C. Funding and Payout of Settlement Funds**

15 33. The Parties agree to take all reasonable steps to expedite moving for and taking
16 reasonable steps necessary to obtain preliminary approval of the proposed settlement and to
17 facilitate distribution of notice to the Class, and moving for final approval and necessary to obtain
18 final approval.

19 34. The Effective Date of the settlement shall be the date of final approval if no
20 objections are filed to the settlement. If objections are filed and overruled and no appeal is taken of
21 the final approval order, the Effective Date shall be thirty (30) days after the Court enters final
22 approval and judgment. If an appeal is taken from the Court's final approval order then the
23 Effective Date shall be the day final approval decision becomes final after all appeals have been
24 resolved.

25 35. No later than thirty calendar (30) days after the effective date of final approval,
26 Defendants shall deposit the sum of THREE HUNDRED THIRTY FIVE THOUSAND
27 DOLLARS (\$335,000) into a Qualified Settlement Fund ("QSF"), plus any sum the administrator
28 advises will be necessary to pay employer side payroll taxes. The QSF shall be a fund established

1 and administered by the Settlement Administrator pursuant to Internal Revenue Code Section
2 1.468B-1 in connection with the Settlement.

3 36. No later than ten (10) business days after the funding date, the Settlement
4 Administrator shall mail settlement checks to Settlement Class Members and send payments to
5 Class Counsel for their court-approved attorneys' fees and expenses and to the Class
6 Representatives for their court-approved Service Payment.

7 37. Settlement Class Members shall have 180 days after mailing by the Settlement
8 Administrator to cash their settlement checks.

9 (a) Beginning 10 days after mailing settlement checks to Settlement Class Members,
10 the Settlement Administrator shall provide counsel for the Parties with a weekly check
11 cashing report identifying all Class Members who have not cashed their checks.

12 (b) If any settlement check remains uncashed after 90 calendar days, the Settlement
13 Administrator shall send a reminder postcard to the recipient to advise that individual that
14 all settlement checks will be voided after 180 calendar days if not cashed by that date.

15 (c) The Settlement Administrator shall use reasonable skip-tracing methods to identify
16 a new mailing address for any Settlement Class Member whose settlement check or
17 reminder postcard is returned as undeliverable and for any Settlement Class Member
18 whose settlement check remains uncashed after 120 calendar days. The Settlement
19 Administrator shall re-mail the settlement check or postcard to each Settlement Class
20 Member for whom a new address is obtained as a result of such skip tracing.

21 (d) No later than 21 days after the final distribution of the GFV, the Parties shall file a
22 post-distribution accounting with the Court, including a declaration from the Settlement
23 Administrator, and post the post-distribution accounting on the case website.

24 38. Class Members shall have 180 days after mailing by the Settlement Administrator
25 to cash their settlement checks. The Settlement Administrator shall pay the funds represented by
26 such un-redeemed checks to the California Unclaimed Property Fund in the name of the Class
27 Member. Even if a Class Member fails to cash his or her settlement check, the Class Member will
28 still release claims pursuant to Paragraph 49.

1 **D. Tax Treatment of Settlement Payments**

2 39. The Parties agree that the amount distributed to each Settlement Class Member
3 consists of a combination of wage and non-wage claims. Payment to each Settlement Class
4 Member will be allocated as follows: 20% of each Individual Settlement Payment will be allocated
5 as alleged unpaid wages, 40% will be allocated as alleged unpaid interest, and the remaining 40%
6 will be allocated as alleged unpaid penalties. The portion allocated to wages will be reported on
7 an IRS Form W-2 and the portions allocated to interest and penalties will be reported on an IRS
8 Form-1099 by the Settlement Administrator.

9 **E. Resolution of Disputes Relating to Amounts Owed to a Claimant**

10 40. If a Settlement Class Member timely disputes Defendants' records as to the proper
11 size of his or her share of the NFV, the Parties' counsel shall make a good faith effort to resolve
12 the dispute informally. If counsel for the Parties cannot agree, the dispute shall be finally resolved
13 by the Court, which shall examine the records to attempt to resolve the dispute. Defendants'
14 records shall control unless Defendants expressly agrees otherwise in an individual case.

15 **IV. NOTICE TO THE CLASS**

16 41. The Parties agree that within ten (10) business days after preliminary approval of
17 this settlement, Defendants shall provide to the Settlement Administrator all of the following
18 information about each Class Member in Excel format ("Class Data List"): (1) name, (2) last
19 known home address, email address and telephone number, (3) social security number, and (4)
20 total pay periods worked in a non-exempt position in California during the PAGA period and
21 during the longer settlement class period. Within ten (10) business days after receipt of the Class
22 Data List, the Settlement Administrator shall send Class Members, by first-class mail to their last
23 known address, the Court-approved Notice of Pendency of Class Action ("Notice"), in
24 substantially the form attached hereto as Exhibit "A." The Notice shall include Defendants'
25 calculation of each Class Member's anticipated settlement allocation share.

26 42. Prior to mailing the Notice, the Settlement Administrator shall check all addresses
27 against the National Change of Address database and shall mail Notices to Settlement Class
28 Members at their new addresses to the extent such addresses are obtained through this process.

1 The Settlement Administrator shall promptly re-mail any Notice that is returned with a forwarding
2 address. The Settlement Administrator shall perform skip-traces on returned mail and shall re-mail
3 the Notice to an updated address (if any) as soon as possible upon return of the undeliverable
4 Notice, but no later than ten (10) days of receiving notice that a Notice was undeliverable. It is the
5 intent of the Parties that reasonable means be used to locate Class Members. To the extent that a
6 party or its counsel learns of a new address for a Class Member, such information must be
7 communicated immediately to the Settlement Administrator, and the Settlement Administrator
8 shall thereupon issue a new Notice to such Class Member at such address.

9 43. The Response Deadline, which is the deadline for a Class Member to opt out of or
10 object to the settlement or dispute the calculation of his or her settlement payment, shall be sixty
11 (60) days after the date of mailing of Notices; provided however, that the Response Deadline for
12 Notices that are re-mailed shall be the earlier of: (a) thirty (30) days after re-mailing of the Notice;
13 or (b) fifteen (15) days before the date set by the Court for the final approval hearing. The
14 Settlement Administrator shall provide a weekly report to the Parties' Counsel identifying those
15 Class Members whose notices have been re-mailed, and the re-mailing dates.

16 V. ADMINISTRATION PROCESS

17 44. Class Members must file or postmark their objections to the Court no later than the
18 Response Deadline for those objections to be timely. No objection may be considered by the
19 Court unless it includes the Class Member's name and address and the last four numbers of the
20 Class Member's social security number and is signed by the Class Member or the Class Member's
21 attorney. The objection must state all reasons for the Class Member's objection. Copies of any
22 objections and the Parties' response thereto shall be submitted to the Court no later than five days
23 before the final approval hearing, unless the Court orders otherwise.

24 45. Class Members who wish to exclude themselves from the Class Settlement must
25 submit a written request for exclusion by the Response Deadline. Any such request for exclusion,
26 to be valid, must state that the Class Member wishes to be excluded from the Class Settlement and
27 must: (1) contain the name, address, telephone number, and the last four digits of the Social
28 Security number of the person requesting exclusion; (2) be signed by the Class Member or the

1 Class Member's attorney; (3) be postmarked or fax-stamped by the Response Deadline and
2 returned to the Settlement Administrator at the specified address or fax number; and (4) contain a
3 typewritten or handwritten notice that contains a statement that clearly conveys the Class
4 Member's request to be excluded from the Settlement Class. No request for exclusion will be valid
5 if it does not comply with each of these requirements. The date of the postmark or fax-stamp on
6 the request for exclusion shall be the exclusive means used to determine whether the request for
7 exclusion was timely submitted. Any Class Member who timely and validly requests to be
8 excluded from the Settlement Class shall not be entitled to any recovery under the Settlement and
9 shall not be bound by the terms of the Settlement or have any right to object, appeal, or comment
10 thereon. Class Members who fail to submit a valid and timely written request for exclusion on or
11 before the Response Deadline shall be bound by all terms of the Settlement and any final
12 judgment entered if the Settlement is approved by the Court.

13 46. Defendants shall retain the right, in the exercise of its sole discretion, to nullify the
14 entire settlement within thirty (30) days after expiration of the opt out period, if more than 10% of
15 the Settlement Class members request exclusion from the settlement. In the event of such a
16 nullification neither this settlement agreement nor the fact that Defendants had agreed to a
17 settlement shall be admissible for any purpose.

18 47. No later than fourteen (14) calendar days after the Response Deadline, the
19 Settlement Administrator shall provide counsel for the Parties with a final list of the Class
20 Members who have timely submitted written requests for exclusion. At no time shall any of the
21 Parties or their respective counsel seek to solicit or otherwise encourage Class Members to submit
22 requests for exclusion from the Settlement. If any Class Member submits a defective request for
23 exclusion before the Response Deadline, the Settlement Administrator shall notify the Parties'
24 counsel so the Parties can meet and confer regarding any such defective request for exclusion and
25 thereafter promptly instruct the Settlement Administrator concerning the defect(s).

26 48. The Settlement Administrator shall use the Class Data List provided by Defendants
27 to calculate each Class Member's share of the NFV for inclusion in the Notice. The Settlement
28 Administrator shall be responsible for calculating the payments, issuing the payments and any

1 required tax reporting forms, and for communicating this information to Defendants and Class
2 Counsel. Upon completion of its calculation of payments, the Settlement Administrator shall
3 provide Class Counsel and Defendants with a report listing the amount of the allocations to each
4 Class Member, and Defendants shall have ten (10) business days to verify the calculations. If no
5 objections to the Settlement Administrator's calculations are made within such time, the
6 Settlement Administrator's calculations shall be deemed correct. Following the Response
7 Deadline, the Settlement Administrator shall recalculate final allocations to the extent necessary to
8 account for any Class Members who timely and validly requested exclusion from the Settlement.
9 The Settlement Administrator shall provide the Parties' Counsel with a report listing the amount
10 of the final allocations to each Class Member, and Defendants shall have ten (10) business days to
11 verify the calculations. If no objections to the Settlement Administrator's calculations are made
12 within such time, the Settlement Administrator's calculations shall be deemed correct.

13 **VI. RELEASE BY THE CLASS OF RELEASED CLASS CLAIMS**

14 49. Upon final approval by the Court, the Settlement Class and each Settlement Class
15 Member shall be deemed to have released Defendants and the Releasees from the Released Class
16 Claims. The Released Class Claims shall include any claims arising from the factual allegations or
17 legal claims asserted in the operative *Aguila* Complaint. This includes claims arising under
18 California Labor Code Sections 201, 202, 203, 204, 226, 226.7, 512, 1194, 1194.2, 1197, any
19 other derivative PAGA claims, or any other claims based on the same factual allegations asserted
20 in the operative *Aguila* First Amended Complaint.

21 **VII. GENERAL RELEASE OF CLAIMS BY CLASS REPRESENTATIVES**

22 50. In consideration for receiving Class Representative Service Payment, and to the
23 extent permitted by law, Plaintiff will provide a general release of claims, known or unknown (the
24 "General Release"): the Class Representative releases the Releasees from all claims, demands,
25 rights, liabilities and causes of action of every nature and description whatsoever, known or
26 unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of
27 any state or federal statute, rule or regulation arising out of, relating to, or in connection with any
28 act or omission by or on the part of any of the Releasees committed or omitted prior to the

1 execution hereof. This General Release excludes any and all past, present and/or future claims
2 arising under the Workers' Compensation laws. The General Release includes any unknown
3 claims the Class Representative does not know or suspect to exist in the Class Representative's
4 favor at the time of the General Release, which, if known by the Class Representative, might have
5 affected the Class Representative's settlement with, and release of, Releasees by the Class
6 Representative or might have affected the Class Representative's decision not to object to this
7 Settlement or the General Release.

8 51. The Class Representative may hereafter discover facts in addition to or different
9 from those the Class Representative now knows or believes to be true with respect to the subject
10 matter of the General Release, but the Class Representative, upon the Effective Date, shall be
11 deemed to have, and by operation of the Court's approval of the Settlement, shall have, fully,
12 finally, and forever settled and released any and all of the claims released pursuant to the General
13 Release whether known or unknown, suspected or unsuspected, contingent or non-contingent,
14 which now exist, or heretofore have existed upon any theory of law or equity now existing or
15 coming into existence in the future, including, but not limited to, conduct that is negligent,
16 intentional, with or without malice, or a breach of any duty, law or rule, without regard to the
17 subsequent discovery or existence of such different or additional facts.

18 52. It is understood and agreed by the Parties, that, as a condition of this Agreement,
19 and with respect to the general release pursuant to this Paragraph, the Parties hereby expressly and
20 mutually waive and relinquish any and all employment-related claims, rights, or benefits that they
21 may have against one another. The Class Representative agrees to waive any rights he may have
22 under California Civil Code §1542, which provides: A GENERAL RELEASE DOES NOT
23 EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW
24 OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
25 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
26 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

27 **VIII. DUTIES OF THE PARTIES IN CONNECTION WITH COURT APPROVAL**

28 53. The Parties shall promptly submit this Stipulation of Settlement to the Court in

1 support of their request for preliminary approval and for a determination by the Court as to the
2 fairness, adequacy, and reasonableness of the Parties' Settlement. As soon as practicable after this
3 Stipulation of Settlement is fully executed, the Parties shall apply to the Court for the entry of a
4 preliminary order substantially in the form attached hereto as Exhibit "B" which would
5 accomplish the following:

- 6 a. Conditionally certify the Settlement Class;
- 7 b. Schedule a final fairness hearing on the question of whether the proposed
8 settlement, the Class Representative Service Payment, the PAGA Allocation,
9 and the Class Counsel Award should be finally approved as fair, reasonable,
10 and adequate;
- 11 c. Approve the form and content of the proposed Notice and direct the mailing
12 of the Notice, by first-class mail, to the Class Members;
- 13 d. Preliminarily approve the settlement subject only to the objections of Class
14 Members and final review by the Court; and,
- 15 e. Preliminarily approve the use of a mutually agreed Settlement Administrator
16 consistent with the Parties' agreement.

17 54. The Settlement Administrator shall submit a declaration in support of Plaintiff's
18 motion for final approval of the Settlement detailing the number of Notices mailed and re-mailed
19 to Class Members, the number of undeliverable Notices, the number of timely requests for
20 exclusion, the number of objections received, the amount of the average individual settlement
21 payment, the Settlement Administration Costs, and any other information that the Parties mutually
22 agree or the Court orders the Settlement Administrator to provide.

23 **IX. DUTIES OF THE PARTIES FOLLOWING FINAL APPROVAL**

24 55. Following final approval of the settlement provided for in this Stipulation of
25 Settlement, Class Counsel will submit a proposed final order and Judgment substantially in the
26 form attached hereto as Exhibit "C":

- 27 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable,
28 and adequate, and directing implementation of its terms and provisions;

- 1 b. Approving the PAGA Allocation;
2 c. Approving the Class Counsel Award;
3 d. Approving the Class Representative Service Payment;
4 e. Approving the release of the Released Class Claims against Releasees by the
5 Settlement Class Members and the individual release between Plaintiff and
6 Defendants.

7 **X. ADDITIONAL PROVISIONS**

8 **A. PARTIES' AUTHORITY**

9 56. The signatories hereto hereby represent that they are fully authorized to enter into
10 this Stipulation of Settlement.

11 **B. MUTUAL FULL COOPERATION**

12 57. The Parties agree fully to cooperate with each other to accomplish the terms of this
13 Stipulation of Settlement. Neither the Parties nor their respective counsel shall solicit or otherwise
14 encourage directly or indirectly any Class Member to request exclusion, to object to the
15 Settlement, or to appeal from the Judgment. The Parties to this Stipulation of Settlement shall use
16 their best efforts, including all efforts contemplated by this Stipulation of Settlement and any other
17 efforts that may become necessary by order of the Court or otherwise, to effectuate this Stipulation
18 of Settlement and the terms set forth herein. As soon as practicable after execution of this
19 Stipulation of Settlement, Class Counsel shall, with the assistance and cooperation of Defendants
20 and its counsel, take all necessary steps to secure the Court's final approval of this Stipulation of
21 Settlement.

22 **C. NO PRIOR ASSIGNMENTS**

23 58. The Parties hereto represent, covenant, and warrant that they have not directly or
24 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
25 person or entity any portion of any liability, claim, demand, action, cause of action, or rights
26 herein released and discharged except as set forth herein.

27 **D. NO ADMISSION**

28 59. Nothing contained herein, nor pertaining to the consummation of this Stipulation of
 Settlement, shall be construed or deemed an admission of liability, culpability, negligence, or

1 wrongdoing on the part of Defendants. Defendants specifically denies any liability. Each of the
2 Parties hereto has entered into this Stipulation of Settlement with the intention of avoiding further
3 disputes and litigation with the attendant inconvenience and expenses.

4 **E. PUBLICITY**

5 60. Neither Plaintiff nor Class Counsel will publicize the Settlement in any way prior
6 to the granting of preliminary settlement approval, except as required by this Agreement. This
7 provision shall not prohibit any party's counsel from communicating with members of the Class
8 who reach out to Class Counsel with questions about the settlement.

9 **F. NO RETALIATION**

10 61. Defendants agrees that it shall not retaliate or discriminate against or take any other
11 adverse employment action against any Plaintiff or Class Member as a result of the *Aguila* action,
12 this Settlement, or the individual's participation in this action.

13 **G. CONSTRUCTION**

14 62. The Parties agree that the terms and conditions of this Stipulation of Settlement are
15 the result of lengthy, intensive arms-length negotiations between the Parties and that this
16 Stipulation of Settlement shall not be construed in favor of or against any Party by reason of the
17 extent to which any Party or his, her, or its counsel participated in the drafting of this Stipulation
18 of Settlement.

19 **H. CAPTIONS AND INTERPRETATIONS**

20 63. Paragraph titles or captions contained herein are inserted as a matter of convenience
21 and for reference and in no way define, limit, extend, or describe the scope of this Stipulation of
22 Settlement or any provision hereof. Each term of this Stipulation of Settlement is contractual and
23 not merely a recital.

24 **I. MODIFICATION**

25 64. This Stipulation of Settlement may not be changed, altered, or modified, except in
26 writing and signed by the Parties or their counsel, and approved by the Court. This Stipulation of
27 Settlement may not be discharged except by performance in accordance with its terms or by a
28 writing signed by the Parties hereto.

1 **J. INTEGRATION CLAUSE**

2 65. No other agreements, understandings, representations, or statements, except for
3 those expressly provided herein, have been made by a Party to induce execution of this Stipulation
4 of Settlement. No rights hereunder may be waived except in writing.

5 **K. COUNTERPARTS**

6 66. This Stipulation of Settlement may be executed in counterparts electronically, and
7 when each Party has signed and delivered at least one such counterpart, each counterpart shall be
8 deemed an original, and, when taken together with other signed counterparts, shall constitute one
9 Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

10 **L. RETURN OF CLASS DATA**

11 67. During the course of this action, Defendants has produced financial and personal
12 contact information of class members. Within thirty (30) days after the Effective Date, class
13 counsel shall gather and delete all class data it received through this action and shall provide a
14 sworn declaration affirming it has satisfied this obligation.

15 **M. CONSEQUENCES OF NON-APPROVAL OF SETTLEMENT**

16 68. If the proposed Settlement is not finally approved for any reason, the Parties shall
17 be returned to their respective statuses as of the date and time immediately prior to the execution
18 of this Stipulation of Settlement; the Parties shall proceed in all respects as if this Stipulation of
19 Settlement had not been executed; and the Parties shall split the Settlement Administration Costs
20 actually incurred.

21 Dated: February __, 2022

Miguel Aguila, Plaintiff

23 Dated: February __, 2022
24 2/25/2022

DocuSigned by:
Kenneth Khan
09E2CEE3E33A49F

Kenneth Khan
for Defendant Global Truss America, LLC

26 Dated: February __, 2022
27 2/28/2022

DocuSigned by:
Toby Velasquez
29326A91C6B24D6...

Toby Velazquez
for Defendants ADJ Products, LLC, Acclaim Lighting
LLC, and Elation Lighting, Inc.

J. INTEGRATION CLAUSE

65. No other agreements, understandings, representations, or statements, except for those expressly provided herein, have been made by a Party to induce execution of this Stipulation of Settlement. No rights hereunder may be waived except in writing.

K. COUNTERPARTS

66. This Stipulation of Settlement may be executed in counterparts electronically, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

L. RETURN OF CLASS DATA

67. During the course of this action, Defendants has produced financial and personal contact information of class members. Within thirty (30) days after the Effective Date, class counsel shall gather and delete all class data it received through this action and shall provide a sworn declaration affirming it has satisfied this obligation.

M. CONSEQUENCES OF NON-APPROVAL OF SETTLEMENT

68. If the proposed Settlement is not finally approved for any reason, the Parties shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Stipulation of Settlement; the Parties shall proceed in all respects as if this Stipulation of Settlement had not been executed; and the Parties shall split the Settlement Administration Costs actually incurred.

Dated: February 25, 2022

DocuSigned by:

Miguel Aguila

32F7254FAB95437...
Miguel Aguila, Plaintiff

Dated: February __, 2022

Kenneth Khan
for Defendant Global Truss America, LLC

Dated: February __, 2022

Toby Velazquez
for Defendants ADJ Products, LLC, Acclaim Lighting
LLC, and Elation Lighting, Inc.

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Approval as to Form and Content by Counsel:

Dated: February __, 2022 _____
Kane Moon
Class Counsel

Dated: February __, 2022 _____
2/25/2022
DocuSigned by:
Thomas Kaufman
F38D43D9A2E144D...
Thomas R. Kaufman
Counsel for Defendants

Approval as to Form and Content by Counsel:

Dated: February 25, 2022


Kane Moon
Class Counsel

Dated: February __, 2022

Thomas R. Kaufman
Counsel for Defendants