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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

BLADIMIR LOPEZ MILLAN on behalf of himself and all others similarly situated Plaintiff, vs. BOUTON CONSTRUCTION, INC., a California corporation, and DOES 1 through 50, inclusive, Defendants.	Case No. 20CV371719 Assigned for All Purposes To: Judge: Hon. Theodore Zayner Dept.: 19 **DECLARATION OF ANTHONY DRAPER IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

DECLARATION OF ANTHONY DRAPER

I, Anthony Draper, declare as follows:

1. I am an individual over the age of 18. I am an associate at the law firm of James Hawkins APLC. I am one of the attorneys of record for plaintiff Bladimir Lopez Millan (hereinafter referred to as “Plaintiff”). I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement which Plaintiff filed concurrently herewith, along with the supporting memorandum of points and authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. On October 19, 2020, Plaintiff filed a Class Action Complaint alleging causes of action against Defendant for (1) failure to pay lawful wages; (2) failure to provide lawful meal periods or compensation in lieu thereof; (3) failure to provide lawful rest periods of compensation in lieu thereof; (4) failure to reimburse employee expenses; (5) failure to timely pay wages (6) knowing and intentional failure to comply with itemized employee wage statement provisions; and (7) violation of the unfair competition law in Fresno County Superior Court.

3. On October 19, 2020, Plaintiff provided timely written notice to the Labor and Workforce Development Agency (“LWDA”) and to Defendant of Plaintiff’s intent to pursue a Labor Code section 2698 Private Attorney General Act (“PAGA”) claim. (A true and correct copy of Plaintiff’s Notice to the LWDA and Defendant is attached hereto as Exhibit 1.)

4. On February 3, 2021, Plaintiff filed a First Amended Complaint in this Action in adding a cause of action for civil penalties under PAGA.

5. Throughout this litigation, Defendant has denied Plaintiff’s allegations and raised defenses to his claims, both individually and on a representative basis. Defendant maintains that its employment policies and practices meet the requirements of the Labor Code and applicable Wage Orders,

6. To date, no class has been certified and the Court has not made any findings that Defendant engaged in any wrongdoing or in violation of any state law, rule or regulation, with respect to the issues presented in the litigation.

7. Through formal and informal discovery, Plaintiff and Defendant have exchanged extensive documents and information related to the claims asserted. Plaintiff obtained hundreds of pages of information, including timecard records and wage reports of putative Class Members. Defendant provided Plaintiff with class data and random samples of time records, wage statements, and information regarding the number of non-exempt employees during the relevant time-period.

8. On December 2, 2024, the Parties participated in a mediation with Daniel Turner, Esq. an experienced class action mediator. Although the Parties were unable to reach a settlement at the conclusion of the mediation, they continued in good faith attempts to resolve the Actions through the assistance of the mediator. However the Parties determined to continue with litigation and further discovery.

9. On October 27, 2025, the Parties participated in a second mediation with Daniel Turner, Esq., where the Parties did not settle, but which ultimately led to an accepted mediator's proposal and settlement in principle on or about October 30, 2025.

10. Thereafter, the Parties exchanged multiple drafts of the proposed settlement agreement and class notice documents and engaged in numerous communications regarding the settlement terms.

11. The final terms and provisions of the settlement agreement were approved and executed by all the parties on or about December 2, 2025. (A true and correct copy of the Class Action and PAGA Settlement Agreement and Class Notice ("Settlement Agreement") is attached hereto as Exhibit 2.)

12. Based on their own respective independent investigations and evaluations and after taking into account the sharply disputed factual and legal issues involved in this matter, the risks attending further prosecution in light of certification issues faced due to the *Brinker Rest. Corp. v. Super. Ct.*, (2012) 53 Cal. 4th 1004 ("*Brinker*") decision, the discovery and

investigation conducted to date, Plaintiff and his counsel are of the opinion that settlement for the consideration and on the terms set forth in the Settlement Agreement is fair, reasonable and adequate and is in the best interests of the named Plaintiff and Class Members.

15. Plaintiff's counsel analyzed the potential liability in this matter based on documents and information produced by Defendant in formal discovery and in preparation for mediation, expert analysis of timekeeping records and payroll data, and took into account the nature of the claims and Defendant's defenses thereto.

16. The damages model used in calculating potential liability was largely based on the number of class members, the number of pay periods, the average rate of pay and a random sample of time records, wage statements and documents produced by Defendant in preparation for mediation. Based on the information provided by Defendant, the estimated number of work weeks and work shifts during the Class Period are 31,750 and 135,496, respectively. There are an estimated 10,463 pay periods during the PAGA Period. The average hourly rate of pay is approximately $26.

17. Plaintiff's counsel estimated the maximum potential liability as follows:

a. Failure to Pay Lawful Wages for All Hours Worked

Plaintiff's claim for failure to pay all lawful wages owed is premised on allegations that, during the Class Period, Plaintiff and Class Members were not paid for the time spent "off the clock" during their scheduled work shifts. Specifically, Plaintiff alleges that he and Class Members would regularly meet at Defendant's yard, travel to the jobsite, and only clock in once arriving at the jobsite. Similarly at the end of a shift, Plaintiff and Class Members would clock out at the jobsite before traveling back to the yard to unpack tools and collect their own vehicle.

Defendant adamantly disputes Plaintiff's allegations that he and Class Members were not properly compensated for all hours worked and claim that Plaintiff lacked evidence in support of the same. Further, Defendant asserts that this claim would be difficult to certify given the predominance of the individualized inquiry as to whether, and to what extent, each Class Member performed any work "off the clock."

As per the analysis conducted on the sample provided by Defendant, the maximum off-the-clock work claim was calculated based on estimated 1 hour of unpaid overtime per week for an estimated 31,750 work weeks. Thus, the maximum potential liability for this claim was calculated at $1,063,340. However, taking into consideration the nature of the claim and Defendant's defenses thereto including the inability to establish the violation with respect to all of the Class Members, for purposes of settlement, this claim was valued between an estimated maximum of $106,334 (10%) and $53,167. (5%).

b. <u>Meal Period Claim</u>

Plaintiff alleges that, during the class period, Defendant did not provide Plaintiff and Class Members with compliant meal breaks nor paid them one hour of their wages in lieu thereof. As stated above, Plaintiff contends that due to the work pressures, work load requirements, understaffing and time constraints, Plaintiff and Class Members's meal periods were at times interrupted and thus required to work "off the clock" during their meal periods. Furthermore, for a majority of the Class Period, Defendant implemented an "auto-deduct" system which automatically deducted thirty minutes from each Class Member's time worked rather than having Class Members clock out and in for their meal periods.

Defendant denies Plaintiff's meal break allegations and maintains that Plaintiff and Class Members were provided with the opportunity to take full and timely meal periods as per their compliant policies and the law. Defendant also asserts the meal break premiums were paid when Class Members were unable to take complaint meal breaks. Defendant disputes the propriety of certification on this claim as well, under the holding in *Brinker* and other state and federal decisions.

Assuming a 100% violation rate during every meal break eligible shift the estimated maximum potential liability was calculated at $3,448,874 ($26 x 132,649 meal break eligible shifts). Taking into consideration the nature of the claim, Defendant's defenses and issues faced due to *Brinker*, for purposes of settlement, the meal break claim was valued between an estimated maximum of $517,331.10 (15%) and $172,443.70 (5%).

c. <u>Rest Break Claim</u>

As with the meal breaks, Plaintiff alleges that he and Class Members were regularly unable to take a minimum ten (10) minute rest breaks for every four hours worked or major fraction thereof. Plaintiff also allege he and Class Members were not compensated one (1) hour of pay at their regular rate of compensation for each workday that a lawful rest period was not provided, in violation of California labor laws, regulations, and IWC Wage Orders (IWC Wage Order 5-2001(12); Cal. Lab. Code § 226.7.

Defendant disputes Plaintiff's allegations regarding rest break violations and contends that Class Members were allowed to take compliant ten (10) minute rest periods under their policies and practices and regularly took such breaks. Defendant also argues that this claim would be difficult to certify given the predominance of the individualized inquiry as to whether, and to what extent, each Class Member was unable to take compliant rest breaks during their shifts.

Assuming a 100% violation rate during every rest break eligible shift the estimated maximum potential liability was calculated at $3,496,558 ($26 x 134,483 rest break eligible shifts). Taking into consideration the nature of the claim, Defendant's defenses and issues faced due to Brinker, for purposes of settlement, the meal break claim was valued between an estimated maximum of $174,827.90 (5%) and 34,965.58 (1%).

d. <u>Expense Reimbursement Claim</u>

The failure to reimburse expense claim under Labor Code § 2802 is premised on allegations that Plaintiff and the Class Members were required to incur necessary expenses in the discharge of their duties for which they did not receive reimbursement. These necessary expenses included but were not limited to their use of personal cell phones for work-related communications and the use of personal vehicles for transportation from the yard to and from various jobsites.

Defendant disputes this allegation and asserts that all employees were provided with the tools and items necessary for the performance of their job duties. Defendant also contends that this claim would be difficult to certify given the predominance of the individualized inquiry and the defenses raised. As such, for purposes of settlement, this claim had minimal value, due to the individualized nature of each and every claim and the difficulty of obtaining class wide evidence for damage calculations. For purposes of settlement, this claim was valued at $0.

e. Failure to Timely Pay Wages During Employment

This claim is based on allegations that Plaintiff and Class Members did not receive payment of all wages owed, including overtime and minimum wages and meal and rest period premiums, within the requisite time under Labor Code section 204. That statute requires that all wages are due and payable twice in each calendar month. For any initial violation under this statute, one hundred dollars ($100) is due for each failure to pay each employee. For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) is due for each failure to pay each employee, plus twenty-five (25) percent of the amount unlawfully withheld. As discussed herein, Defendant disputes that it failed to pay any lawful wages owed and is therefore not liable for any penalties under this statute. Defendant also contends that liability only applies when employers fail to pay wages on a timely basis; not whether the correct amount of wages were paid. *(See's Candy Shops, Inc. v. Superior Ct.* (2012) 210 Cal. App. 4th 889, 904-905.) Here, employees can recover penalties either Labor Code section 210 or PAGA but not both. For purposes of settlement, Plaintiff is pursuing this claim under PAGA, which is discussed below.

f. Failure to Timely Pay Wages at Separation

Pursuant to Labor Code sections 201, 202 and 203, each employee in the relevant statutory period (i.e., three years before the filing of the initial Complaint) is entitled to thirty (30) days' worth of wages as a waiting time penalty for not being paid all wages upon the separation of employment. Plaintiff alleges that penalties are owed under Labor Code section 203 due to, at a minimum, Defendant's failure to pay wages for all hours worked and failure to pay premium wages. With respect to Lab. Code § 203 claim, there were an estimated 403 Class Members to whom this claim applied. The estimated maximum potential liability was determined to be $1,085,760 using the formula: (174 former employees) x (30 x $26 x 8 hours per day).

Defendant once again asserts that no unpaid wages are owed as Defendant did not fail to pay the correct wages owed, including overtime or minimum wages, nor did they fail to pay premium wages. Defendant further contends that its actions were not willful as required for penalties to issue and that, thus, waiting time penalties cannot be awarded. Because of the costs and risks of proceeding, and the defenses faced, for purposes of settlement negotiations, said claim was valued between an estimated maximum of $217,152 (20%) and $108,576 (10%).

g. Failure to Provide Accurate Itemized Wage Statements

Under Lab. Code § 226(e), an employee suffering "injury as a result of a knowing and intentional failure by an employer" to provide accurate wage statements is entitled to $50 for the initial violation and $100 for each subsequent violation up to $4,000. This claim is derivative of the unpaid wages claims asserted. The estimated maximum potential liability for this claim was calculated at $964,000 based on an estimated 241 employees x $4,000.

Defendant contends that the wage statements issued to the employees fully complied with Labor Code section 226. Defendant states that because it believes no wages are unpaid, there can be no derivative penalties. Further, Defendant argues that, if any wage statements were in fact inaccurate, it did not "knowingly and intentionally" fail to provide accurate statements and that Plaintiff and the Class did not suffer any "injury" from such inaccurate wage statements. For purposes of settlement negotiations, said claim was valued between an estimated maximum of $96,400 (10%) and $48,200 (5%).

h. Bus. & Prof. Code § 17200 *et seq*. ("UCL") Claim

The only remedies available under the unfair competition law ("UCL") Business and Professions Code Section 17200 *et seq.* are restitution and injunction, as opposed to damages (C*lark v. Superior Court* (2010) 50 Cal. 4th 605, 610.) The UCL provides that "[t]he court may make such orders or judgments ... as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition." (Bus. & Prof. Code, § 17203.) Restitution under the UCL includes "earned wages." (*Cortez v. Purolator Air Filtration Prods. Co*. (2000) 23 Cal. 4th 163, 177-78.)

Restitution under the UCL is not available for all violations of the Labor Code.(*See Pineda v. Bank of Am., N.A.* (2010) 50 Cal. 4th 1389, 1401-02.)

Here, Plaintiffs' UCL claim is solely premised on the failure to pay lawful wages and premium wages claims discussed above. Plaintiffs' Counsel assigned a zero-dollar value to the UCL claim because it does not provide any additional value in this Action other than to increase the statute of limitations to four years for the underlying claims. Those claims are valued and analyzed above based on the four-year statute of limitations provided by the UCL. However, the UCL claim in and of itself does not provide any additional damages. Therefore, there is no additional or separate monetary value that this statute provides based on the facts of this Action.

i. <u>Lab. Code § 2699 (PAGA Claim)</u> – Plaintiff's claims under PAGA are predicated on or derivative of the claims discussed above and as set forth in the Operative Complaint. The estimated maximum PAGA penalty was calculated as $1,046,300. This figure attributes a $100 penalty to each of the estimated 10,463 pay periods in scope during the PAGA Period. This figure is based on an assumption that there is a 100% violation rate during the PAGA Period, such that every single pay period in question involved at least one Labor Code violation, despite disputes regarding Defendant's liability. However, PAGA claims under the facts and circumstances of this case may result in no award or at best a very minimal award by the trial court. See specifically § 2699(e)(2) which states in its pertinent part: "… a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."

For instance, in *Fleming v. Covidien* (C.D. Cal. 2011) 2011 U.S. Dist. LEXIS 154590, a federal court reduced PAGA penalties from $2,800,000 to $500,000, a reduction of 82.2%. The court found maximum penalties "unjust" because the employees had suffered no injuries. Some trial courts have actually awarded no civil penalties, even when Labor Code violations are established. *In re Taco Bell Wage & Hour Actions* (E.D. Cal. Apr. 6, 2016) 2016 U.S. Dist. LEXIS 48557, *40-43 (PAGA penalties denied after trial).

In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each of the underlying Labor Code violations. (*See Cardenas v. McLane Foodservice*, Inc. (C.D. Cal. 2011) 2011 U.S. Dist. LEXIS 13126, *10 ["Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."].) Here, Plaintiff would need to prove that each Aggrieved Employee suffered all violations for each pay period the employee worked. As discussed herein, the nature of the PAGA based claims (i.e. rest break, meal period, wage statements, failure to pay all wages owed and to timely pay wages) and Defendant's asserted defenses thereto present a strong risk that some or all of the PAGA penalties sought may not be awarded.

Defendant denies that a violation for each pay period can be established. Defendant states that because the PAGA Action heavily relies on the same allegations made in the Class Action, they are subject to the same defenses, and, thus, for the same reason Defendant believes there will be no damages collectible in the class action, no PAGA penalties would be awarded, either. Defendant also asserts that individualized issues predominate the PAGA claims, making the claims unmanageable for trial.

Given the nature of these claims, as analyzed above, Plaintiff's Counsel believes it to be likely that if there were any award, it could be a minimal amount. Therefore, the amount of $50,000 (which has been reserved for the PAGA claim) is both fair and reasonable.

18. Through his counsel, Plaintiff took into consideration the significant risks that class certification could be denied on the central claim, or that a merits decision on the central claim would not favor the Class. Plaintiff has considered the expense and length of continued proceedings necessary to continue the Action against Defendant through trial and any possible appeals. Plaintiff is also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, Defendant's defenses thereto, and the difficulties in establishing Plaintiff's damages. Moreover, Plaintiff also reviewed and considered Defendant's financial condition in arriving at this Settlement.

19. The proposed Settlement requires Defendant to pay each Class Member who does not opt out a portion of the Net Settlement Amount as specifically set forth in the Settlement

Agreement. The amount to be paid to the Class is undoubtedly fair, adequate and reasonable especially in light of the significant risk to Plaintiff and Class Members in continuing with the litigation and not prevailing on class certification or at trial, and thus leaving employees with no recovery.

20. The Settlement Agreement provides for an award to be paid to the Class Representative. The primary purpose is to provide Plaintiff an enhancement award, taking into consideration the risks, time, effort and expenses incurred by him in coming forward to provide invaluable information and litigate this matter on behalf of all Class Members and Aggrieved Employees. Plaintiff has actively participated in this litigation by providing significant supporting documents and information and assisting counsel in developing information necessary to litigate and settle this case which has resulted in a favorable settlement for the putative Class Members and Aggrieved Employees.

21. James Hawkins APLC has a great deal of experience in wage and hour class action litigation. The law firm and its lawyers have obtained certification of multiple classes, have been approved as class counsel in many other wage/hour class actions, and currently litigating numerous others. Although not an all inclusive list, over the years the law firm has prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this action:

- ***Mojica v. Compass Group, Inc., et. al.*** USDC Central District, Case No. 8:13-cv-01754.
- ***Dao v. 3M Company, et al.*** USDC, CENTRAL DISTRICT, Case No. CV-08-04554.
- ***Ortiz v. Kmart,*** USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
- ***Morgan v. Aramark Campus, LLC,*** USDC, CENTRAL DISTRICT, Case No. SACV08-00412.
- ***West v Iron Mountain Information Management, Inc, et. al.;*** Los Angeles County Superior Court, Case No. BC393709.

- ***Gonzalez v. Superior Industries International, Inc.*, et al.,** Los Angeles County Superior Court, Case No. BC 357912.
- ***Acosta v. Fleetwood Travel Trailers of California, Inc.*, et al.,** Riverside County Superior Court, Case No. RIC 440630.
- ***Walker v. Sharkeez*, et al.,** Orange County Superior Court, Case No. 05CC00293.
- ***Padron v. Universal Protection Service, et al*,** Orange County Superior Court, Case No. 05CC00013.
- ***Martinez v. Securitas Security Services USA, et al.*,** Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460.
- ***Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*,** Riverside Superior Court, Case No. RIC 420909.
- ***Ruiz, et al. v. Unisourse Worldwide, Inc., et al.*,** USDC, CENTRAL DISTRICT, Case No. CV09-05848.
- ***Herrador v. Culligan International Company, et al.*,** USDC, CENTRAL DISTRICT, Case No. SACV 08-680.
- ***Defries v. Domain Restaurants, et al.*,** Orange County Superior Court, Case No. 05CC00128.
- ***Denton v. BLB Enterprises, Inc., et al.*,** Orange County Superior Court, Case No. 07CC01292.
- ***Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.*,** Los Angeles Superior Court, Case No. BC411477.
- ***McMurray v. Dave and Busters, Inc., et al.*,** Orange County Superior Court, Case No. 06CC00099.
- ***Osuna v. DFG Restaurants, Inc., et al.*,** Los Angeles Superior Court, Case No. BC 330145.
- ***Burns v. Gymboree Operations, Inc.*, et al.,** San Francisco Superior Court, Case No. CGC-07-461612.

- ***Willems v. Diedrich Coffee, Inc., et al.,*** Orange County Superior Court, Case No. 07CC00015.
- ***Davila, et al. v. Beckman Coulter, Inc., et al.,*** Orange County Superior Court, Case No. 07CC01347.
- ***Perez v. Naked Juice Company of Glendora, Inc.,*** Los Angeles Superior Court, Case No. BC387088.
- ***Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and Hour Cases***, Los Angeles Superior Court, Case No. JCCP 4545.
- ***Placencia v. Amcor Packaging Distribution, Inc.,*** Orange County Superior Court, Case No. 30-2013-00694012-CU-OE-CXC.
- ***Trani v. Lisi Aerospace, et al.,*** Los Angeles Superior Court, Case No. BC495527.
- ***Galvan v. Goodwin Co.,*** Orange County Superior Court, Case No. 30-2013-00637062-CU-OE-CXC.
- ***Reyes v. Bristol Fiberlite,*** Orange County Superior Court, Case No. 30-2013-00653425-CU-OE-CXC.
- ***Gutierrez v. HMT Tank,* USDC Central Dist.,** Case No. CV14-1967-CAS(MAN)
- ***Williams v. Il Fornaio America Corp.,*** Sacramento County, Case No. 34-2011-0009616.
- ***Aguilar v. 7-Eleven, Inc.,*** Orange County, Case No. 30-2009-002687141-CU-OE-CXC.
- ***Madrigal v. Huntington Beach Market Broiler, Inc.,*** Orange County, Case No. 30-2012-00611260.
- ***Vang v. Jazz Semiconductor, Inc.,*** Orange County, Case no. 30-2011-00460278.
- ***Vigueras v. Red Robin International, Inc,*** USDC Central Dist. Case No. *SACV 17-1422 JVS (DFMx);*
- ***Smith v. Space Exploration Technologies Corp.,*** Los Angeles Superior Court, Case No. *BC55429;*

- ***Cano v. Financial Statement Services, Inc.,*** Orange County Superior Court, Case No. 30-2013-00653349-CU-OE-CXC;
- ***Mendez v. Liberty Glass Fabricators, Inc.,*** Riverside County Superior Court Case No. RIC1800119;
- ***Attia v. Neiman Marcus Group, Inc.,*** United States District Court for the Central District of California Case No. 8:16-cv-001504-DOC-FFM;
- ***O'Brien, et al. v. Cerida Investment Corp.,*** Santa Clara Superior Court Case No. 21CV384527;
- ***Gonzalez v. Quality Aluminum Forge, LLC,*** Orange County Superior Court Case No. 30-2015-00817941;
- ***Shay v. Apple, Inc.,*** United States District Court for the Southern District of California Case No. 3:20-cv-1629-JO-BLM;
- ***Milligan v. CWI, Inc.,*** San Bernardino Superior Court Case No. CIVDS 2013999;
- ***Aguilar v. LDI Mechanical, Inc.,*** Riverside County Case No. RIC1610019;
- ***Abron v. University Healthcare Alliance,*** Alameda County Superior Court Case No. RG20066438;
- ***Benson v. F21 Opco, LLC,*** San Diego Superior Court Case No. 37-2021,00024619-CU-OE-CTL;
- ***Allen v. Creative Stone Mfg., Inc.,*** San Bernardino County Superior Court Case No. CIVSB2201498;
- ***Santamaria v. Bright Horizons Children's Center,*** San Bernardino County Superior Court Case No. CIVSB2210140;
- ***Yniguez v. Airgas USA, LLC,*** Los Angeles County Superior Court Case No. 20STCV18190;
- ***Cervantez v. Genuine Parts Company,*** Los Angeles County Superior Court Case No. 22STCV00981;

- ***Robles v. Jetro Holdings, LLC,*** San Diego Superior Court Case No. 37-2021-00015414-CU-OE-CTL;
- ***Hernandez v. Euromarket Designs, Inc.,*** Santa Clara County Superior Court Case No. 20CV3770922;
- ***Ayala v. Veg-Land, et al.,*** Orange County Superior Court Case No. 30-2014-00738775-CU-OE-CXC;
- ***Puente v. Sully-Miller Contracting Co.,*** Orange County Superior Court Case No. 30-2015-00792088-CU-OE-CXC;
- ***Garcia v. Revolution Foods, Inc.,*** Los Angeles Superior Court Case No. BC579142;
- ***Attaway, et al. v. Alliance Residential, LLC,*** Santa Clara County Superior Court Case No. 20CV365134;
- ***Bowman v. Delta Dental of California,*** Alameda County Superior Court Case No. RG21108230;
- ***Hernandez v. Burrtec Waste & Recycling Services, LLC,*** United States District Court for the Central District of California Case No. 5:21-CV-001490-JWH-SP;
- ***Grant v. T-Mobile USA, Inc.,*** United States District Court for the Central District of California Case No. 2:21-CV-02268;
- ***Dawson v. Wonderful Pistachios and Almonds, LLC,*** Kern County Superior Court Case No. BCV-17-100848;
- ***Hamilton, et al. v. Michael Kors Stores (California), Inc.,*** Los Angeles County Superior Court Case NO. 19STCV37061;
- ***Ross v. Stater Bros.,*** San Bernardino Superior Court Case No. CIVDS1902518;
- ***Walker v. Barrett Business Services, Inc., et al.,*** Los Angeles County Superior Court Case No. 20STCV39172;
- ***Benitez, et al. v. Medtronic, Inc., et al.,*** Orange County Superior Court Case No. 30-2019-01069185-CU-OE-CXC;

- ***Montgomery v. Copart, Inc.,*** Sacramento County Superior Court Case No. 34-2020-00280733-CU-OE-GDS;
- ***Vizcarra-McNamee v. Nordstrom, Inc.,*** Orange County Superior Court Case No. 30-2020-01141916-CU-OE-CXC;
- ***Ayers v. Cherry Hill Programs, Inc.,*** Fresno County Superior Court Case No. 20CECG00821;
- ***Sleeper v. Boot Barn, Inc.,*** Sacramento County Superior Court Case No. 34-2019-00272000-CU-OE-GDS;
- ***Pulido-Dias v. Dirt Cheap, Inc.,*** San Bernardino County Superior Court Case No. CIVDS1719694;
- ***Villanueva v. Nordstrom, Inc.,*** San Bernardino County Superior Court Case No. CIVDS1918706;
- ***Bryson v. Madame Tussauds, et al.,*** Los Angeles County Superior Court Case No. 19STCV33514
- ***Hightower v. Levy Premium, et al.,*** Santa Clara County Superior Court Case No. 19CV359262;
- ***Marquez v. Maxim Crane Works, L.P.,* et al,** Los Angeles County Superior Court Case No. 19STCV39548;
- ***Rovira v. Silverado Senior Living Management, Inc.,*** Orange County Superior Court Case No. 30-2020-01136565-CU-OE-CXC;
- ***Hallum, et al. v. FCA US, LLC,*** San Bernardino County Case No. CIVDS1936782;
- ***Martinez v. Placer Title Co., et al.,*** Kern County Case No. BCV-19-103486;
- ***Torres v. Van Law Food Products, Inc.,*** Orange County Case No. 37-2017-00946312-CU-OE-CXC;
- ***Holmes v. Pet Food Express, LLC,*** Alameda County Case No. 22CV014140;
- ***Ventura v. Conduent Commercial Solutions, LLC,*** Kern County Case No. BCV-22-102043;

- ***Ramirez v. CSI Electrical Contractors, Inc.,*** Fresno County Superior Court Case No. 18CECG04150;
- ***Magana v. Eibach Springs, Inc.,*** Riverside County Superior Court Case No. RIC1708917;
- ***Knox v. Express Messenger Systems, Inc.,*** San Bernardino County Superior Court Case No. CIVDS1932323;
- ***Corona, et al. v. G&M Oil Company, Inc.,*** Los Angeles County Superior Court Case No. BC640876
- ***Aguilar v. Peach Home Services, Inc., et al.,*** Riverside County Superior Court Case No. RIC1823057;
- ***Wilson v. M.C. LLC,*** Orange County Superior Court Case No. 30-2019-01103382-CU-OE-CXC.
- ***Nunez v. Nevell Group, Inc.,*** Orange County Superior Court Case No. 30-2015-00783269.
    - ***Bendorf, et al. v. Sea World LLC,*** *et al.*, San Diego Superior Court Case No. 37-2021-00034922-CU-OE-CTL;
    - ***DeMartini, et al. v. Safelite Fulfillment, Inc.,*** Marin County Case No. CIV20002076;
    - ***Ayala, et al., v. Macy's West Stores, Inc.,*** Los Angeles County Case No. 20STCV34182;
    - ***Wallen, et al. v. United Rentals (North America), Inc., et al.,*** Stanislaus County Case No. CV-22-000399;
    - ***Granados v. Hyatt Corporation,*** United States District Court for the Southern District of California Case No. 3:23-cv-01001-H-VET;
    - ***Vigil v. Hyatt Corporation,*** United States District Court for the Northern District of California Case No. 4:22-cv-00693;

- ***Garcia v. U.S. Best Ingredients, Inc.,*** Los Angeles Superior Court Case No. 21TRCV00813.

22. Mr. Hawkins has been practicing law in California since 1997 and in 2007 incorporated his wage and hour class action practice as James Hawkins APCL. Since its inception, Mr. Hawkins has been lead and/or co-lead counsel in hundreds of wage and hour class action cases.

23. Ms. Fernandez has been a member of the Florida Bar since January 1996 and a member of the California Bar since August 2002. Ms. Fernandez has specialized in employment-related litigation including complex wage and hour civil litigation since 2003. Ms. Fernandez has been, and currently is, co-counsel in over 50 wage and hour class action litigations for our firm and has produced excellent results for this firm's clients in the wage and hour class actions.

24. I have been a member of the California Bar since July 2022 and was provisionally licensed prior to that time. I have specialized in complex wage and hour litigation since October 2021. I have been, and currently am, co-counsel in over 40 complex wage and hour cases and have successfully litigated wage and hour class and PAGA actions for our firm.

25. Attached as Exhibit A to the Settlement Agreement is a true and correct copy of the Notice of Class Action Settlement and Hearing Date for Final Court Approval; ("Class Notice.")

26. On January 27, 2026, Plaintiff submitted the Settlement Agreement, concurrently with the filing of this motion, to the LWDA.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 27, 2026 at Irvine, California.

Anthony Draper

EXHIBIT 1

JAMES *JH* HAWKINS

A PROFESSIONAL LAW CORPORATION

9880 RESEARCH DRIVE, SUITE 200, IRVINE, CALIFORNIA 92618
TELEPHONE (949) 387-7200; FACSIMILE (949) 387-6676

October 19, 2020

Via LWDA Website:
Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
http://www.dir.ca.gov/Private-Attorneys-General-Act

Via Certified Mail:
Bouton Construction, Inc.
Registered Agent for Service of Process:
c/o Novielli Tax & Accounting Associates Inc.
7237 Longhill Way, San Jose, CA 95128
Cert. Mail No. 7020 0640 0001 0089 9332

Re: NOTICE PURSUANT TO LABOR CODE SECTIONS 2699 et seq.

To Whom It May Concern:

PLEASE TAKE NOTICE that plaintiff BLADIMIR LOPEZ MILLAN on behalf of himself and all others similarly situated gives NOTICE to either file or amend a civil action pursuant to Labor Code Sections 2699, *et seq*. Plaintiff hereby gives written notice by certified mail to BOUTON CONSTRUCTION, INC. and to the Labor and Workforce Development Agency ("LWDA") through the LWDA Website (http://www.dir.ca.gov/Private-Attorneys-General-Act). Plaintiff hereby attaches the Complaint as though fully set forth herewith, setting out the specific provisions of the Labor Code plaintiff alleges have been violated including the facts and his theories. <u>All labor provisions alleged violated in the complaint PERTAIN TO ALL ENTITIES AND INDIVIDUALS NAMED IN THE COMPLAINT; even if not specifically specified.</u>

Please advise by certified mail within sixty (60) days of the post mark on this letter if the LWDA intends to investigate these claims. Thank you.

If you have any questions, please do not hesitate to contact me.

Very Truly Yours,

Isandra Fernandez

Isandra Fernandez

Enclosures: Class Action Complaint

James R. Hawkins, Esq. SBN 192925
Isandra Fernandez, Esq. SBN 220482
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Irvine, CA 92618
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isandra@jameshawkinsaplc.com

Attorneys for Plaintiff BLADIMIR LOPEZ MILLAN
on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

BLADIMIR LOPEZ MILLAN on behalf of himself and all others similarly situated Plaintiff, vs. BOUTON CONSTRUCTION, INC. a California corporation, and DOES 1 through 50, inclusive, Defendants.	Case No. Assigned for All Purposes To: Judge: Dept.: **CLASS ACTION COMPLAINT** **1) Failure to Pay Lawful Wages** **2) Failure to Provide Lawful Meal Periods or Compensation in Lieu Thereof** **3) Failure to Provide Lawful Rest Periods or Compensation in Lieu Thereof** **4) Failure to Timely Pay Wages** **5) Failure to Reimburse Employee Expenses** **6) Knowing and Intentional Failure to Comply With Itemized Employee Wage Statement Provisions** **7) Violations of the Unfair Competition Law** **JURY TRIAL DEMANDED**

Plaintiff BLADIMIR LOPEZ MILLAN on behalf of himself and all others similarly situated assert claims against Defendant BOUTON CONSTRUCTION , INC. and DOES 1 through 50, inclusive (hereinafter collectively referred to as "Defendants") as follows:

I.

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, brought against Defendant BOUTON CONSTRUCTION , INC. and any subsidiaries and affiliated companies (hereinafter “BOUTON CONSTRUCTION ” or “Defendants”) on behalf of Plaintiff BLADIMIR LOPEZ MILLAN (hereinafter “Plaintiff”) and all employees not classified as “Exempt” or primarily employed in executive, professional, or administrative capacities, employed by, or formerly employed by BOUTON CONSTRUCTION in California. (hereinafter referred to as “Non-Exempt Employees” and/or “Class Members”).

2. During the liability period, defined as the applicable statute of limitations for each and every cause of action contained herein, Defendants enforced shift schedules, employment policies and practices, and workload requirements wherein Plaintiff and all other Non Exempt Employees: (1) were not paid proper wages they earned for all hours they worked including minimum wage; (2) were not permitted to take their full statutorily authorized rest and meal periods, or had their rest and meal periods shortened or provided to them late due to the scheduling and work load and time requirements placed upon them by Defendants. Defendants failed to pay such employees one (1) hour of pay at the employees regular rate of compensation for each workday that the meal period and/or rest period that was not properly provided.

3. During the liability period, Defendants have failed to reimburse Class Members for business expenses incurred in the performance of their job duties.

4. During the liability period, Defendants have also failed to maintain accurate itemized records reflecting total hours worked and have failed to provide Non Exempt Employees with accurate, itemized wage statements reflecting total hours worked and appropriate rates of pay for those hours worked.

5. During the liability period, Defendants have also failed to pay all wages owed to discharged or resigned Class Members in a timely manner.

6. Plaintiff, on behalf of himself and all Class Members, bring this action pursuant to Labor Code sections 201, 202, 203, 204, 221, 225, 226, 226.7, 512, 1194, 1199, 2802, California Code of Regulations, Title 8, section 11160 *et seq*. and any other applicable Industrial Welfare Commission ("IWC") Wage Orders, seeking unpaid lawful wages, unpaid rest and meal period compensation, penalties and other equitable relief, and reasonable attorneys' fees and costs.

7. Plaintiff, on behalf of himself and others similarly situated, pursuant to Business and Professions Code sections 17200-17208, also seeks restitution from Defendants for their failure to pay all lawful wages owed and rest and meal period premiums to each of their Non-Exempt Employees.

II.

VENUE

8. Venue as to each Defendant is proper in this judicial district pursuant to Code of Civil Procedure section 395. Defendant conducts substantial and continuous commercial activities in Santa Clara County, California and each Defendant is within the jurisdiction of this Court for service of process purposes. Defendants employ numerous Class Members in Santa Clara, California.

III.

PARTIES

9. Plaintiff is, and at all times mentioned in this complaint, was a resident of California.

10. On information and belief, Defendant BOUTON CONSTRUCTION is a California corporation which is headquartered in Campbell, California and engaged in the providing residential and commercial paving and concrete services in California.

11. The true names and capacities of Defendants, whether individual, corporate, associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure

section 474. Plaintiff is informed and believes, and based thereon alleges that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

12. Plaintiff is informed and believes, and based thereon alleges, that Defendants acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

IV.

FACTUAL BACKGROUND

13. Plaintiff was employed by Defendants from in or about July 2017 through on or about June 15, 2020. During his employment, Plaintiff occupied a non- exempt, hourly position. His job duties included, but were not limited to, landscape type work, planting plants, , digging holes to install pipes, clean-up and hauling. He was typically scheduled to work five to six days a week and between eight (8) hours and/or ten (10) hour shifts.

14. During the relevant time period, Plaintiff and Class Members were typically either required to go to the yard and leave from there to the job site or depending on the job, driver directly to the job site. Plaintiff and Class Members were required to arrive at Defendants' yards one hour to one and half hour prior to the official start of their shift. During this time, they loaded the trucks and got ready to leave to the job site. Plaintiff and Class Members were not allowed to punch in for work until arriving at the designated job site. The work performed prior to the official start of their shift was not compensated. As such, Plaintiff and Class Members performed work off the clock while under Defendants' control during their work shifts for which they were not compensated.

15. At the end of their work shifts, Plaintiff and Class Members were likewise not paid for work performed "off the clock". For instance, they were not compensated for the drive back from the job site to the yard and for the time spent unloading the trucks.

16. Plaintiff and, on information and belief, Class Members were not compensated for the work performed “off the clock” and therefore not properly paid overtime compensation when they worked over 8 hours in day or over 40 hours in a week

17. As Non Exempt Employees, Plaintiff and Class Members were frequently required to work in excess of five (5) hours without a minimum, uninterrupted thirty (30) minute meal period before the end of the fifth hour and/or work in excess of ten (10) hours without a second minimum 30 minute meal period. Plaintiff and Class Members were compensated one (1) hour of pay at their regular rate of compensation for every workday that a meal period was not provided, in violation of California labor laws, regulations and IWC Wage Order.

18. Due to the work load and scheduling demands they were required to adhere to, Plaintiff and Class Members were typically required to work without being able to take any rest breaks during their shifts. They were required to work without being permitted or authorized a minimum ten (10) minute rest period for every four hours or major fraction thereof worked and not compensated one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not provided, in violation of California labor laws, regulations, and IWC Wage Orders.

19. During the relevant time period, Plaintiff and Class Members were required to use their personal phones in the performance of their job duties. For example, Plaintiff and Class Members were required to communicate with the supervisors regarding work duties including, but not limited to, work to be performed, changes to schedules. Plaintiff did not receive any reimbursement from Defendants for the use of his personal phones and is informed and believes, and thereupon alleges, that Defendant did not reimburse Class Members for the use of their personal phones in the performance of their job duties.

20. Additionally, Plaintiff and certain Class Members were at times required to drive to different job sites in their own cars. Plaintiff did not receive any reimbursement for mileage in the use of his personal vehicle and is informed and believes, and thereupon alleges, that Defendant did not reimburse Class Members mileage for the use of their personal vehicles in the performance of their job duties.

21. On information and belief, Defendants willfully failed to pay all earned wages in a timely manner to Non Exempt Employees; nor has Defendant paid to Non Exempt Employees, upon or after termination of their employment with Defendant, all compensation due, including but not limited to all wages owed and compensation for having failed to properly provide rest periods and meal periods.

22. Defendants have also failed to maintain accurate itemized records reflecting total hours worked and have failed to provide Non Exempt Employees with accurate, itemized wage statements reflecting total hours worked and appropriate rates of pay for those hours worked

23. Plaintiff are informed and believe, and based thereon allege, that Defendants currently employ and during the relevant period have employed over one hundred (100) employees in the State of California in non-exempt hourly positions.

24. Non-Exempt Employees employed by Defendants, at all times pertinent hereto, have been non-exempt employees within the meaning of the California Labor Code, and the implementing rules and regulations of the IWC California Wage Orders.

V.

CLASS ACTION ALLEGATIONS

25. Plaintiff seeks to represent a Class comprised of and defined as: All persons who are or were employed by BOUTON CONSTRUCTION in the state of California as hourly non exempt employees within four (4) years prior to the date this lawsuit is filed ("liability period") until resolution of this lawsuit (collectively referred to as the "Class" and/or Class Members").

26. Plaintiff also seeks to represent Subclasses which are composed of persons satisfying the following definitions:

a. All persons who are or were employed by BOUTON CONSTRUCTION in the state of California, as hourly non-exempt employees who, within the liability period, were not accurately and fully paid all lawful wages owed to them including overtime wages when they worked over eight (8) hours in a day and/or over forty (40) hours in a week;

b. All persons who are or were employed by BOUTON CONSTRUCTION in the state of California, as hourly non-exempt employees who, within the liability period, were not accurately and fully paid all lawful wages owed to them including minimum wage for all their hours worked;

c. All persons who are or were employed by BOUTON CONSTRUCTION in the state of California, as hourly non-exempt employees who, within the liability period, have not been provided an uninterrupted 30 minute meal period when they worked over five hours in a work shift and/ or a second 30 minute meal period when they worked over 10 hours in a shift and were not provided compensation in lieu thereof;

d. All persons who are or were employed by BOUTON CONSTRUCTION in the state of California, as hourly non-exempt employees who, within the liability period, have not been authorized and permitted a minimum ten (10) minute rest period for every four (4) hours or major fraction thereof worked per day and were not provided compensation in lieu thereof;

e. All persons who are or were employed by BOUTON CONSTRUCTION in the state of California who, within the liability period, were required to use their personal phones in the performance of their job duties without receiving reimbursement from Defendants;

f. All persons who are or were employed by BOUTON CONSTRUCTION in the state of California who, within the liability period, were required to use their personal vehicles in the performance of their job duties without receiving reimbursement for mileage from Defendants;

g. All persons who are or were employed by BOUTON CONSTRUCTION in the state of California as hourly non-exempt employees who, within the liability period, were not timely paid all wages due and owed to them upon the termination of their employment with Defendants; and

h. All persons who are or were employed by BOUTON CONSTRUCTION in the state of California as hourly non exempt employees who, within the liability period, were not provided with accurate and complete itemized wage statements.

27. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend

or modify the class description with greater specificity or further division into subclasses or limitation to particular issues.

28. This action has been brought and may properly be maintained as a class action under the provisions of section 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. <u>Numerosity</u>

29. The potential members of the Class as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiff is informed and believes that Defendants currently employ, and/or during the relevant time period employed, approximately over 100 Non-Exempt Employees in California who are or have been affected by Defendants' unlawful practices as alleged herein.

B. <u>Commonality</u>

30. There are questions of law and fact common to the Class predominating over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

i. Whether Defendants violated Labor Code sections 510, 1194 and applicable IWC Wage Orders by failing to pay all earned wages including overtime compensation to Non-Exempt Employees who performed work “off the clock” without pay and in excess of eight (8) hours in a work day and/or more than forty (40) hours in a workweek;

ii. Whether Defendants also violated Labor Codes sections 200, 1194, and 1197 for failing to pay minimum wages for work performed "off the clock" without pay. Labor Code §1197 provides that employees are to be paid minimum wage for each hour worked, and cannot be averaged the minimum and the payment of a lesser wage than the established is unlawful;

iii. Whether Defendants violated Labor Code sections 226.7, 512 and applicable IWC Wage Order by failing to provide statutorily compliant 30 minute meal periods to

Non-Exempt Employees on days in which they worked in excess of 5 hours and/or 10 hours and failing to compensate said employees one hour wages in lieu of meal periods;

iv. Whether Defendants violated Labor Code sections 226.7 and applicable IWC Wage Orders by failing to authorize and permit minimum 10 minute rest periods to Non-Exempt Employees for every four hours or major fraction thereof worked and failing to compensate said employees one hours wages in lieu of rest periods;

v. Whether Defendants violated Labor Code §2802 and applicable IWC Wage Orders for failing to indemnify employees for the expenditures incurred in the performance of their job duties (i.e., requiring that Class Members use their personal phones in the performance of their job duties and/or their personal vehicles);

vi. Whether Defendants violated sections 201-203 of the Labor Code by failing to pay all earned wages and/or premium wages due and owing at the time that any Class Members' employment with Defendants terminated;

vii. Whether Defendants violated sections 226 of the Labor Code and applicable IWC Wage Orders by failing to, among other violations, maintain accurate records of Non-Exempt Employees' earned wages, work periods, meal periods and deductions;

viii. Whether Defendants violated section 17200 *et seq*. of the Business and Professions Code by failing to pay all lawful wages owed to Non-Exempt Employees; failing to provide proper rest and/or meal periods and failing to pay compensation in lieu thereof; failing to reimburse employee expenses; failing to pay wages due and owing at the time the employee's employment with Defendants terminated failing to keep accurate records all in violation of Labor Code §§ 201, 202, 203, 204, 226, 226.7, 512, 1194, 1199, 2802 and applicable IWC Wage Orders.

ix. Whether Defendants violated section 17200 *et seq.* of the Business and Professions Code and Labor Code sections §§ 201, 202, 203, 204, 221, 225, 226, 226.7, 512, 1194, 1199, 2802 and applicable IWC Wage Orders which violation constitutes a violation of fundamental public policy.

C. Typicality

31. The claims of the named Plaintiff are typical of the claims of the Class. Plaintiff and all members of the Class sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of California laws, regulations, and statutes as alleged herein.

D. Adequacy of Representation

32. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class. Counsel who represents Plaintiff is competent and experienced in litigating large employment class actions.

E. Superiority of Class Action

33. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants' unlawful policy and/or practice herein complained of.

34. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

VI.
CAUSES OF ACTION

First Cause of Action
Failure to Pay Lawful Wages Including Overtime and/or Minimum Wages
(Lab. Code §§ 510, 1194 1199)
(Against All Defendants)

35. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

36. As discussed herein, during the liability period, Defendants’ policies and/or practices resulted in Plaintiff and Class Members working off the clock and in excess of eight

(8) hours in a workday and/or forty (40) hours in a workweek without receiving the proper compensation at the rate of time and one-half (1 1/2) of such employee's regular rate of pay.

37. As discussed herein, during the liability period Defendants' policies, practices and work shift requirements resulted in Plaintiff and Class Members working "off the clock" and not receiving compensation for all earned wages including minimum wage in violation of California state wage and hour laws.

38. During the liability period, Defendants' policies and/or practices resulted in Plaintiff and Non Exempt Employees not receiving minimum wages for time spent working "off the clock" without pay. Labor Code §1197 provides that employees are to be paid minimum wage for each hour worked, and cannot be averaged the minimum and the payment of a lesser wage than the established is unlawful

39. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to represent have been deprived of compensation for all earned wages including overtime and/or minimum wage compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code section 1194

40. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

Second Cause of Action
Failure to Provide Lawful Meal Periods
Or Compensation in Lieu Thereof
(Lab. Code §§226.7, 512, IWC Wage Orders)
(Against All Defendants)

41. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

42. As discussed herein, by their failure to provide 30 minute uninterrupted meal periods by the end of the fifth hour for days on which Non-Exempt employees work(ed) work periods in excess of 5 hours and/or failing to provide a second 30 minute uninterrupted meal period for days in which the Non Exempt Employees worked shifts in excess of 10 hours and

failing to provide compensation for such statutorily non-compliant meal periods, Defendants violated the provisions of Labor Code §512 and applicable IWC Wage Orders.

43. By failing to record and maintain adequate and accurate time records according to sections 226 and 1174 (d) of the Labor Code, Defendants have injured Plaintiff and Class Members and made it difficult to calculate the unpaid meal period compensation due Plaintiff and Class Members.

44. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code §226.7.

45. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

Third Cause of Action
Failure to Provide Rest Periods
Or Compensation in Lieu Thereof
(Lab. Code §§226.7, IWC Wage Orders)
(Against All Defendants)

46. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

47. As discussed herein, by their failure to provide a minimum ten (10) minute rest period for every four hours or major fraction thereof worked per day by Non Exempt Employees, and failing to provide compensation for such non-provided rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and IWC applicable Wage Orders.

48. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code §226.7.

49. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

Fourth Cause of Action
Failure to Reimburse Employee Expenses
(Lab. Code § 2802)
(Against All Defendants)

50. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

51. As discussed herein, by their policy of unlawfully requiring employees to use their personal phones in the performance of their job duties without reimbursement, Defendants willfully violated the provisions of Lab. Code § 2802 and applicable IWC Wage Order.

52. As discussed herein, by their policy of unlawfully requiring employees to use their personal vehicles in the performance of their job duties without reimbursement, Defendants willfully violated the provisions of Lab. Code § 2802 and applicable IWC Wage Order.

53. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to represent are entitled to recovery of full amount of expenses incurred plus interest, attorneys' fees, and costs, under Labor Code§ 2802.

54. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

Fifth Cause of Action
Failure to Timely Pay Wages Due At Termination
(Lab. Code §§ 201-203)
(Against All Defendants)

55. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

56. Sections 201 and 202 of the California Labor Code require Defendants to pay its employees all wages due within 72 hours of termination of employment. Section 203 of the Labor Code provides that if an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to pay the subject employees' wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

57. As discussed herein, affected class members are entitled to compensation for all forms of wages earned, including overtime compensation, minimum wages, compensation for

non- compliant rest and meal periods but to date have not received such compensation therefore entitling them Labor Code section 203 penalties.

58. More than 30 days have passed since Plaintiff and affected Class Members have left Defendants' employ, and on information and belief, have not received payment pursuant to Labor Code §203. As a consequence of Defendants' willful conduct in not paying all earned wages, certain Class Members are entitled to 30 days' wages as a penalty under Labor Code section 203 for failure to pay legal wages.

59. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

Sixth Cause of Action
Knowing and Intentional Failure to Comply With Itemized Employee Wage Statement Provisions
(Lab. Code § 226(b))
(Against All Defendants)

60. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

61. Section 226(a) of the California Labor Code requires Defendants to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Plaintiff and the members of the proposed class. IWC Wage Orders require Defendants to maintain time records showing, among others, when the employee begins and ends each work period, meal periods, split shift intervals and total daily hours worked in an itemized wage statement, and must show all deductions and reimbursements from payment of wages, and accurately report total hours worked by Plaintiff and the members of the proposed class. On information and belief, Defendants have failed to record all or some of the items delineated in Industrial Wage Orders and Labor Code §226

62. Plaintiff and Class Members have been injured by Defendants' actions by rendering them unaware of the full compensation to which they were entitled under applicable provisions of the California Labor Code and applicable IWC Wage Orders.

63. Pursuant Labor Code §226, Plaintiff and Class Members are entitled up to a maximum of $4,000.00 each for record-keeping violations.

64. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

Seventh Cause of Action
Violation of Unfair Competition Law
(Bus. & Prof. Code, §§ 17200-17208)
(Against All Defendants)

65. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

66. Business & Professions Code Section 17200 provides:

> As used in this chapter, unfair competition shall mean and include any ***unlawful***, ***unfair*** or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

67. Defendants' violations of the Labor Code and Wage Order provisions set forth above constitute unlawful and/or unfair business acts or practices.

68. The actions of Defendants, as alleged within this Complaint, constitute false, fraudulent, unlawful, unfair, fraudulent and deceptive business practices, within the meaning of Business and Professions Code section 17200, *et seq*.

69. Plaintiff and Class Members have been personally aggrieved by Defendants' unlawful and unfair business acts and practices alleged herein.

70. As a direct and proximate result of the unfair business practices of Defendants, and each of them, Plaintiff, individually and on behalf of all employees similarly situated, are entitled to restitution of all wages which have been unlawfully withheld from Plaintiff and members of the Plaintiff Class as a result of the business acts and practices described herein.

71. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described herein and below.

VII.

PRAYER

WHEREFORE, Plaintiff prays for judgment as follows:

1. That the Court determine that this action may be maintained as a class action;
2. For compensatory damages in an amount according to proof with interest thereon;
3. For economic and/or special damages in an amount according to proof with interest thereon;
4. For premium wages pursuant to Labor Code §§ 226.7 and 512;
5. For premium pay and penalties pursuant to Labor Code §203
6. For attorneys' fees, interests and costs of suit under Labor Code §§1194,2802
7. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

Dated: October 19, 2020 **JAMES HAWKINS, APLC**

Isandra Fernandez

James R. Hawkins, Esq.
Isandra Y. Fernandez, Esq.
Attorneys for Plaintiff
Bladimir Lopez Millan

EXHIBIT 2

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement ("Agreement") is made and entered into by and between Plaintiff Bladimir Lopez Millan ("Plaintiff" or "Lopez Millan") and Defendant Bouton Construction, Inc. ("Bouton" and/or "Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties," and each individually as a "Party."

1. DEFINITIONS.

1.1. "Action" means the civil action entitled *Bladimir Lopez Millan v. Bouton Construction, Inc.* Case No. 20CV371719, filed on or about October 19, 2020, in the Superior Court of the State of California, County of Santa Clara, alleging wage-and-hour violations against Defendant.

1.2. "Administrator" means Apex Class Action Administration, the neutral third-party settlement administrator jointly selected by the Parties to administer the Settlement, subject to Court approval.

1.3. "Administration Expenses Payment" means the amount to be paid to the Administrator from the Gross Settlement Amount for its reasonable fees and expenses, not to exceed the amount approved by the Court based on the Administrator's bid submitted in connection with Preliminary Approval of the Settlement.

1.4. "Aggrieved Employee" means all current and former non-exempt hourly employees employed by Defendant in California during the PAGA Period.

1.5. "Class" and/or "Settlement Class" means all current and former hourly,non-exempt hourly employees employed by Defendant in California during the Class Period.

1.6. "Class Counsel" means James R. Hawkins, Isandra Fernandez, and Anthony L. Draper of James Hawkins APLC, counsel for Plaintiff and the Settlement Class.

1.7. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" mean the amounts to be paid to Class Counsel from the Gross Settlement Amount, subject to Court approval, for reasonable attorneys' fees and litigation expenses incurred in the prosecution of the Action.

1.8. "Class Data" means Class Member identifying information in Defendant's possession including the Class Member's name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.9. "Class Member" or "Settlement Class Member" means any individual who is a member of the Class, whether a Participating Class Member or Non-Participating Class Member (including any Non-Participating Class Member who also qualifies as an Aggrieved Employee).

1.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. "Class Notice" means the Notice of Class Action and PAGA Settlement to be mailed to Class Members in English and Spanish, in the form, without material variation, attached hereto as Exhibit A and incorporated by reference into this Agreement.

1.12. "Class Period" means the period from October 19, 2016 to October 27, 2025.

1.13. "Class Representative" means the named Plaintiff Bladimir Lopez Millan, who is seeking Court approval to serve as the Class Representative.

1.14. "Class Representative Service Payment" means the payment to the Class Representative for initiating the Action, providing services in support of the Action and as consideration for the general release of all claims by the Class Representative.

1.15. "Court" means the Superior Court of California, County of Santa Clara.

1.16. "Defendant" means Bouton Construction, Inc. ("Bouton").

1.17. "Defense Counsel" means Rachel E. Brown of Sweeney Mason, LLP

1.18. "Effective Date" means the latest of the following dates: Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. "Final Approval" means the Court's entry of an order granting final approval of the Settlement, certifying the Settlement Class for settlement purposes, and discharging the Released Parties from liability for all Released Class Claims and Released PAGA Claims.

1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.22. "Gross Settlement Amount" means Eight Hundred Twenty-Five Thousand Dollars ($825,000), which is the total amount Defendant agree to pay under the Settlement, exclusive of employer-side payroll taxes and any Escalator Clause adjustments. The Gross Settlement Amount will be used to fund Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, and the Administration Expenses Payment.

1.23. "Individual Class Payment" means a Participating Class Member's pro rata share of the Net Settlement Amount, calculated based on the number of Workweeks worked by that Class Member during the Class Period.

1.24. "Individual PAGA Payment" means an Aggrieved Employee's pro rata share of twenty-five percent (25%) of the PAGA Penalties, calculated according to the number of Pay Periods worked during the PAGA Period.

1.25. "Judgment" means the judgment entered by the Court upon Final Approval of the Settlement.

1.26. "LWDA" means the California Labor and Workforce Development Agency, as referenced in Labor Code section 2699, subdivision (i).

1.27. "LWDA PAGA Payment" means seventy-five percent (75%) of the PAGA Penalties to be paid to the LWDA pursuant to Labor Code section 2699, subdivision (i).

1.28. "Net Settlement Amount" means the Gross Settlement Amount less the following Court-approved payments: the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, Administration Expenses Payment, the LWDA PAGA Payment, and the Individual PAGA Payments. The remaining Net Settlement Amount shall be distributed to Participating Class Members on a pro rata basis as Individual Class Payments.

1.29. "Non-Participating Class Member" means any Class Member who timely and validly opts out of the Settlement by submitting a Request for Exclusion to the Administrator.

1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant in California during the PAGA Period. .

1.31. "PAGA Period"is the period from October 19, 2019 through October 27, 2025.

1.32. "PAGA" means the Private Attorneys General Act of 2004, Labor Code sections 2698 et seq.

1.33. "PAGA Notice" means Plaintiff Bladimir Lopez Millan's October 19, 2020, letter to Defendant and the California Labor and Workforce Development Agency ("LWDA") providing notice pursuant to Labor Code section 2699.3, subdivision (a), as referenced in the Action and the operative Complaint.

1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount of $50,000 (25% allocated to Aggrieved Employees ($12,500) and 75% ($37,500) allocated to the LWDA, in settlement PAGA claims.

1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. "Plaintiff" means Bladimir Lopez Millan, the named Plaintiff and proposed Class Representative in the Action.

1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.38. "Preliminary Approval Order" means the Court's order granting preliminary approval of the Class and PAGA Settlement.

1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.

1.41. "Released Parties" means Defendant, and any of its parent, affiliate, and subsidiary entities, each of their former and present directors, officers, shareholders, owners, members, managers, attorneys, insurers, predecessors, successors, and assigns.

1.42. "Request for Exclusion" means a written request signed by a Class Member seeking to be excluded from the Class Settlement.

1.43. "Response Deadline" means forty-five (45) calendar days after the Administrator mails the Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may:

(a) fax, email, or mail (postmarked by that date) a Request for Exclusion from the Settlement; or

(b) fax, email, or mail (postmarked by that date) his or her Objection to the Settlement.

Class Members to whom Notice Packets are re-sent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the original Response Deadline to submit a Request for Exclusion or an Objection.

1.44. "Settlement" means the disposition of the Action effected by this Agreement, the Judgment, and all orders related thereto.

1.45. "Workweek" means any week during which a Class Member worked for Defendant as a non-exempt employee in California for at least one day during the Class Period.

2. RECITALS.

2.1. On October 19, 2020, Plaintiff Lopez Millan commenced the Action by filing a Class Action Complaint alleging causes of action against Defendant for (1) failure to pay lawful wages; (2) failure to provide lawful meal periods or compensation in lieu thereof; (3) failure to provide lawful rest periods of compensation in lieu thereof; (4) failure to reimburse business expenses; (5) failure to timely pay wages; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; and (7) violation of the unfair competition law, Case No. 34-2020-00282148 in Sacramento Superior Court .

2.2. On October 19, 2020, Plaintiff provided timely written notice to the Labor and Workforce Development Agency ("LWDA") and to Defendant of Plaintiff's intent to pursue a Labor Code section 2698 Private Attorney General Act ("PAGA") claim.

2.3. On February 3, 2021, Plaintiff filed, upon Court approval, a First Amended Class Action Complaint, adding a cause of action for civil penalties under PAGA. The operative First Amended Class Action Complaint therefore alleged the following causes of action: 1) failure to pay lawful wages; (2) failure to provide lawful meal periods or compensation in lieu thereof; (3) failure to provide lawful rest periods of compensation in lieu thereof; (4) failure to reimburse business expenses; (5) failure to timely pay wages; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; (7) violation of the unfair competition law, and (8) civil penalties under PAGA.

2.4. On December 2, 2024, the Parties participated in an all-day mediation presided over by Daniel Turner, an experienced wage and hour class action mediator. An agreement was not reached at the conclusion of the mediation. The parties continued with the litigation. Plaintiff propounded further pre-certification discovery including the depositions of Defendant's PMK.

2.5. On October 27, 2025, the Parties participated in a second all day mediation with Mr. Turner. At the conclusion of the mediation, the Parties did not reach a settlement. However, subsequent to the mediation, the Parties accepted a proposal provided by the mediator.

2.6. Prior to the mediations and through pre-certification discovery in the Action, Plaintiff obtained, through formal and informal discovery, policy documents, personnel file materials, and time and payroll records for a random sampling of the potential class. Plaintiff's counsel worked with third party consultants to analyze these materials and conducted an investigation sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.7. The Parties now desire to fully and finally resolve the Action and all Released Class Claims and Released PAGA Claims asserted therein on a class-wide and representative basis, subject to Court approval, without any admission of liability, wrongdoing, or violation of law by Defendant. The Parties enter into this Agreement solely to avoid the burden, expense, and uncertainty of continued litigation and to effect a fair and reasonable compromise of disputed claims.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Defendant promises to pay Eight Hundred Twenty-Five Thousand Dollars ($825,000) as the Gross Settlement Amount, and to separately pay any and all employer-side payroll taxes owed on the wage portions of the Individual Class Payments. Defendant have no obligation to fund the Gross Settlement Amount (or payroll taxes) prior to the deadline stated in Paragraph 4.2 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without requiring any Participating Class Member or Aggrieved Employee to submit a claim as a condition of payment. No portion of the Gross Settlement Amount shall revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Subject to Court approval, a Class Representative Service Payment of not more than $10,000 shall be paid to Plaintiff Bladimir Lopez Millan in recognition of his time, effort, and risk in prosecuting the Action (in addition to any Individual Class Payment or Individual PAGA Payment to which he is entitled as a Participating Class Member). Defendant will not oppose a request for a service award up to this amount. If the Court approves less than the amount requested, the unapproved portion shall be added to the Net Settlement Amount. The Administrator shall issue the Class Representative Service Payment on IRS Form 1099, and Plaintiff shall be solely responsible for any taxes owed on this payment.

3.2.2. To Class Counsel: Subject to Court approval, a Class Counsel Fees Payment of up to thirty-five percent (35%) of the Gross Settlement Amount (currently estimated at $288,750) and a Class Counsel Litigation Expenses Payment of up to $40,000 shall be paid to James Hawkins APLC. Defendant will not oppose these requests provided they do not exceed the specified amounts. If the Court approves less than requested, any unapproved portion shall be added to the Net Settlement Amount. The Administrator shall issue appropriate IRS Forms 1099 to Class Counsel, who shall be solely responsible for all taxes owed on such payments and shall indemnify Defendant from any liability arising therefrom.

3.2.3. To the Administrator: An Administration Expenses Payment not to exceed $8,000.00for settlement administration costs shall be paid to the Administrator. If the administration expenses are less than the amount approved, the difference shall be added to the Net Settlement Amount.

3.2.4. To Each Participating Class Member: Each Participating Class Member shall receive an Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of workweeks worked by all Participating Class Members during the Class Period, and (b) multiplying that quotient by each Participating Class Member's individual workweeks during the Class Period.

3.2.4.1. Tax Allocation of Individual Class Payments. Twenty-five percent (25%) of each Participating Class Member's Individual Class Payment shall be treated as wages ("Wage Portion") subject to applicable tax withholdings and reported on IRS Form W-2; the remaining seventy-five percent (75%) shall be treated as interest and penalties ("Non-Wage Portion") reported on IRS Form 1099. Each Participating Class Member shall be solely responsible for any taxes owed on his or her Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members shall not receive any Individual Class Payments. The Administrator shall retain amounts equal to the Individual Class Payments that would have been distributed to Non-Participating Class Members in the Net Settlement Amount, for redistribution to Participating Class Members on a pro rata basis. Under no circumstances shall any portion of the Net Settlement Amount revert to Defendant.

3.2.5. To the LWDA and Aggrieved Employees (PAGA Penalties): A total of $50,000 from the Gross Settlement Amount shall be allocated to resolve PAGA claims ("PAGA Penalties"), of which twenty-five percent (25%) shall be distributed to Aggrieved Employees as Individual PAGA Payments and seventy-five percent (75%) shall be paid to the California Labor and Workforce Development Agency ("LWDA PAGA Payment") pursuant to Labor Code § 2699(i).

3.2.5.1. Calculation of Individual PAGA Payments: The Administrator shall calculate each Individual PAGA Payment by (a) dividing the Aggrieved Employees' twenty-five percent (25%) share of the PAGA Penalties by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and (b) multiplying that result by each Aggrieved Employee's individual number of pay periods worked during the PAGA Period. Aggrieved Employees shall assume full responsibility and liability for any taxes owed on their Individual PAGA Payments.

3.2.5.2. Adjustment and Reporting of PAGA Penalties: If the Court approves PAGA Penalties in an amount less than that proposed by the Parties, the Administrator shall allocate the unapproved portion to the Net Settlement Amount. The Administrator shall issue IRS Forms 1099 for all Individual PAGA Payments.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount and shall also fund all amounts necessary to pay Defendant's share of applicable employer-side payroll taxes, by transmitting such funds to the Administrator no later than sixty (60) calendar days after the Court's Final Approval Order becomes final. (the "Funding Date").

4.2. Payments from the Gross Settlement Amount. Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the Administrator shall mail checks for all Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. The disbursement of the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment shall not precede the disbursement of the Individual Class Payments and Individual PAGA Payments.

4.2.1. Mailing of Payments. The Administrator shall issue checks for Individual Class Payments and Individual PAGA Payments and send them via First-Class U.S. Mail, postage prepaid, to each Participating Class Member and Aggrieved Employee, respectively. The face of each check shall prominently state the date—not less than one hundred eighty (180) days after the date of mailing—on which the check will become void. The Administrator shall cancel all checks not cashed by the void date. The Administrator shall send Individual Class Payment checks to all Participating Class Members (including those whose Class Notice was returned undelivered) and Individual PAGA Payment checks to all Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved Employees (including those whose Class Notice was returned undelivered). Prior to mailing any checks, the Administrator shall update all mailing addresses using the National Change of Address (NCOA) database.

4.2.2. Re-Mailing and Replacement Checks. The Administrator shall conduct a Class Member Address Search for any Class Member whose check is returned as undeliverable without a USPS forwarding address. Within seven (7) calendar days of receiving a returned check, the Administrator shall re-mail the check to any forwarding address provided by USPS or to a new address obtained through the Class Member Address Search. The Administrator shall not be required to take further steps for checks re-mailed and again returned as undeliverable. Upon timely request from a Class Member before the void date, the Administrator shall issue a replacement check if the original was lost, misplaced, or stale dated.

4.2.3. Uncashed Checks and Unclaimed Funds. For any Class Member or Aggrieved Employee whose Individual Class Payment or Individual PAGA Payment check remains uncashed after the void date, the Administrator shall transmit the funds represented by such checks the non-profit organization Legal Aid At Work under the doctrine of *cy pres* thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

4.2.4. Effect of Settlement Payments on Benefits. Payment of the Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to make any additional payments or confer any additional benefits (including, without limitation, 401(k) contributions, bonuses, or benefit-plan credits) beyond those expressly set forth in this Agreement. Such payments shall not be considered for purposes of determining eligibility for, vesting in, or participation in any benefit or welfare plan, including any plan governed by ERISA.

5. **RELEASES OF CLAIMS.** As of the Effective Date, Plaintiff and Class Members shall release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff, on behalf of himself and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, fully and forever releases and discharges the Released Parties from any and all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule or regulation which Plaintiff has, owns or holds, or claims to have, own or hold, or at any time prior to the Effective Date of this Agreement had, owned or held, or claimed to have, own or hold, or may have against the Released Parties, excluding only claims that, by law, may not be released. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agree, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, 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."

5.2 Release by Participating Class Members. As of the Effective Date, all Participating Class Members shall be deemed to have released and discharged the Released Parties from any and all claims, demands, causes of action, rights, liabilities, or damages of every kind and nature, known or unknown, suspected or unsuspected, arising during the Class Period and relating to the allegations in the Action, including: (a) all claims that were, or reasonably could have been, alleged based on the facts contained in the First Amended Complaint; and (b) any and all wage-and-hour or related statutory, regulatory, or common-law claims that could have been asserted based on the same facts, matters, transactions, or occurrences alleged therein, including claims premised on any duties or rights under California Labor Code sections 200, 201, 202, 203, 221, 225, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 1199, 2699, and 2802; California Code of Regulations, Title 8, section 11060 et seq., and any other applicable Industrial Welfare Commission ("IWC") Wage Orders; and Business and Professions Code sections 17200 through 17208. "

5.3 Release by Aggrieved Employees. As of the Effective Date, all Aggrieved

Employees, whether or not they are Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, fully and forever release and discharge the Released Parties from all claims to recover civil penalties pursuant to the Private Attorneys General Act of 2004 ("PAGA") for alleged violations of the California Labor Code during the PAGA Period that were alleged, or reasonably could have been alleged, in the PAGA Notice that Plaintiff submitted to the California Labor and Workforce Development Agency ("LWDA") or in the First Amended Complaint filed in this Action. The release includes all PAGA claims premised on alleged violations of Labor Code sections 200, 201, 202, 203, 221, 225, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 1199, 2699, and 2802, which are resolved by this Settlement.

6. MOTION FOR PRELIMINARY APPROVAL. Plaintiff shall prepare and file a motion for preliminary approval (the "Motion for Preliminary Approval") that complies with the Court's applicable rules and checklist for class and PAGA settlements.

6.1 Plaintiff's Responsibilities. Plaintiff shall prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including a draft notice and memorandum in support of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk v. Foot Locker Retail, Inc*. (1996) 48 Cal.App.4th 1794 and *Kullar v. Foot Locker Retail, In*c. (2008) 168 Cal.App.4th 116, and a request for approval of the PAGA portion of the Settlement pursuant to Labor Code section 2699(f)(2); a draft proposed Order Granting Preliminary Approval of the Settlement; a draft proposed Class Notice; a signed declaration from Plaintiff confirming his willingness and competency to serve as Class Representative; a signed declaration from Class Counsel attesting to their qualifications and competency to represent the Class Members; evidence of timely transmission to the California Labor and Workforce Development Agency ("LWDA") of all required PAGA-related documents, including the initial notice of violations (Labor Code § 2699.3(a)), and this fully executed Agreement (Labor Code § 2699(l)(2).

6.2 Responsibilities of Counsel. Class Counsel and Defense Counsel shall be jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) days after the full execution of this Agreement, obtaining a prompt hearing date for the Motion for Preliminary Approval, and appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel shall be responsible for delivering the Court's Preliminary Approval Order to the Administrator.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval or the supporting declarations and documents, Class Counsel and Defense Counsel shall expeditiously work together on behalf of the Parties, meeting in person or by telephone and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval, or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel shall expeditiously meet and confer in good faith to modify this Agreement and otherwise satisfy the Court's concerns to the extent possible and agreeable to all Parties.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties shall jointly selected Apex Class Action Administration to perform the duties specified in this Agreement. As a condition of appointment, the Administrator shall agree to be bound by this Agreement and to perform, as a fiduciary, all duties specified herein in exchange for payment of the Court-approved Administration Expenses. The Parties and their respective Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising from prior experience administering settlements.

7.2 Employer Identification Number. The Administrator shall use its own Employer Identification Number for purposes of calculating payroll-tax withholdings and reporting payments to federal and state tax authorities. The Administrator shall report payment of all amounts issued from the Gross Settlement Amount and Net Settlement Amount to all required tax and other authorities, withhold and remit all required taxes consistent with this Agreement, and issue the appropriate IRS and state tax forms.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 Notice to Class Members.

7.4.1 Class Data: No later than fourteen (14) calendar days after the Court grants Preliminary Approval of the Settlement, Defendant shall deliver the Class Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator shall maintain the Class Data in strict confidence, use it solely for purposes of administering this Settlement, and restrict access to only those employees of the Administrator who require such access to perform their duties under this Agreement. Defendant has a continuing duty to promptly notify Class Counsel if it discovers that the Class Data omitted or contained inaccurate identifying information for any Class Member and shall provide corrected or supplemental Class Data as soon as reasonably practicable. Without extending the deadline by which Defendant must initially transmit the Class Data to the Administrator, the Parties and their counsel shall use their best efforts in good faith to cooperate and resolve any issues related to incomplete or omitted Class Data as expeditiously as possible.

7.4.2 Receipt of Class Data. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and confirm the total number of Class Members, Aggrieved Employees, workweeks, and pay periods reflected in the Class Data.

7.4.3 Mailing of Class Notice. Using its best efforts to perform as soon as practicable, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Administrator shall mail, via first-class United States Postal Service ("USPS"), the Class Notice substantially in the form attached hereto as **Exhibit A** to all Class Members identified in the Class Data. The first page of the Class Notice shall prominently display the estimated dollar amounts of the Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of workweeks and pay periods used to calculate those amounts. Prior to mailing, the Administrator shall update Class Member addresses using the National Change of Address ("NCOA") database.

7.4.4 Re-Mailing of Returned Class Notices. Not later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member

Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.5 Extension of Deadlines for Re-Mailed Notices. The deadlines for Class Members to submit written objections, challenges to workweek and/or pay-period calculations, or Requests for Exclusion shall be extended by an additional fourteen (14) calendar days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator shall inform those Class Members of the extended deadline in the re-mailed Class Notice.

7.4.6 Disputed or Omitted Class Members. If the Administrator, Defendant, or Class Counsel are contacted by—or otherwise become aware of—any person who believes they should have been included in the Class Data and should have received a Class Notice, the Parties shall expeditiously meet and confer in person or by telephone and in good faith to determine whether the person should be included as a Class Member. If the Parties agree to include such person, the Administrator shall promptly send, by email or overnight delivery, a Class Notice providing that the person shall exercise the options available under this Agreement no later than fourteen (14) calendar days after receipt of the Class Notice, or by the deadline dates in the Class Notice, whichever is later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves from (opt out of) the Class Settlement must send to the Administrator, by fax, email, or mail, a signed written Request for Exclusion no later than forty-five (45) calendar days after the Administrator mails the Class Notice, plus an additional fourteen (14) calendar days for Class Members whose Class Notice is re-mailed. A Request for Exclusion must be a letter from the Class Member or the Class Member's authorized representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address, and either an email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator shall not reject a Request for Exclusion as invalid merely because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and that person's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise subject to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may request additional proof of the Class Member's identity, and the Administrator's determination of authenticity shall be final and binding, subject to Court approval.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion shall be deemed a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether that Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion shall be deemed a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class-action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of Judgment, any Non-Participating Class Member who qualifies as an Aggrieved Employee is deemed to have released the PAGA claims identified in Paragraph 5.3 of this Agreement and shall still receive an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45) calendar days after the Administrator mails the Class Notice, plus an additional fourteen (14) calendar days for Class Members whose Class Notice is re-mailed, to challenge the number of Class Workweeks and/or PAGA Pay Periods (if any) allocated to that Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email, or mail, and the Administrator shall encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator shall be entitled to presume that the Workweeks and/or Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise subject to challenge. The Administrator shall promptly provide copies of all challenges to the calculation of Workweeks and/or Pay Periods, and its determinations of those challenges, to Defense Counsel and Class Counsel.

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class-action components of the Settlement or to any provision of this Agreement, including objections to the fairness, adequacy, or reasonableness of the Settlement, and/or the amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Class Representative Service Payment.

7.7.2 Participating Class Members may submit written objections to the Administrator by fax, email, or mail, or may appear in Court personally (or through their own attorney, at their own expense) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to submit a written objection to the Administrator must do so no later than forty-five (45) calendar days after the Administrator mails the Class Notice, plus an additional fourteen (14) calendar days for Class Members whose Class Notice is re-mailed.

7.7.3 Non-Participating Class Members shall have no right to object to any of the class-action components of the Settlement or this Agreement.

7.8 Administrator's Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator shall establish, maintain, and use an internet website to post information of interest to Class Members, including the date, time, and location of the Final Approval Hearing and copies of this Settlement Agreement, the Motion for Preliminary Approval, the Preliminary Approval Order, the Class Notice, the Motion for Final Approval (including the motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment), the Final Approval Order, and the Judgment. The Administrator shall translate the Class Notice and any other communications with Class Members as required and shall maintain and monitor an email address and a toll-free telephone number to receive Class Member inquiries, faxes, and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator shall promptly review, on a rolling basis, all Requests for Exclusion to ascertain their validity. No later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email to Class Counsel and Defense Counsel a list containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (the "Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; and (c) copies of all Requests for Exclusion received, whether valid or invalid.

7.8.3 Weekly Reports. The Administrator shall, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (the "Weekly Report").

7.8.4 Workweek and/or Pay Period Challenges. The Administrator shall have authority to address and make final decisions, consistent with the terms of this Agreement, on all Class Member challenges to the calculation of Workweeks and/or Pay Periods. The Administrator's determination shall be final and not appealable or otherwise subject to challenge, but remains subject to Court review if necessary.

7.8.5 Administrator's Declaration. No later than fourteen (14) days before the date by which Plaintiff must file the Motion for Final Approval of the Settlement, the Administrator shall provide Class Counsel and Defense Counsel with a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all obligations under this Agreement, including but not limited to its mailing of the Class Notice, the number of Class Notices returned as undeliverable and re-mailed, its efforts to locate Class Members, the total number of Requests for Exclusion (both valid and invalid) received, the number of written objections, and attaching the Exclusion List. The Administrator shall supplement its declaration as needed or as requested by the Parties or the Court. Class Counsel shall be responsible for filing the Administrator's declaration(s) with the Court.

7.8.6 Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds from the Gross Settlement Amount, the Administrator shall provide Class Counsel and Defense Counsel with a final report detailing, by employee identification number only, all payments made under this Agreement. At least fifteen (15) days before any deadline set by the Court, the Administrator shall prepare and deliver to Class Counsel and Defense Counsel a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel shall be responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE AND ESCALATOR CLAUSE. Defendant estimates that, as of the date of this Agreement, there are approximately 241 Class Members who worked a total of 31,750 workweeks during the Class Period, and approximately 168 Aggrieved Employees who worked a total of 10,463 pay periods during the PAGA Period. If the total number of workweeks ultimately exceeds 31,750, the Escalator Clause shall apply, and Defendant shall increase the GSA on a pro-rata basis (for example, if the number of workweeks increases by 1%, the GSA will increase by 1% consistent with the terms of this Agreement.

9. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds ten percent (10%) of the total number of all Class Members, Defendant may, but are not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant exercises this election, the Settlement shall be void ab initio, have no force or effect whatsoever, and neither Party shall have any further obligation to perform under this Agreement; provided, however, that Defendant shall remain responsible for paying all Settlement Administration Expenses incurred up to that point. Defendant shall notify Class Counsel and the Court in writing of their election to withdraw no later than seven (7) calendar days after the Administrator transmits the final Exclusion List to Defense Counsel, and any untimely election to withdraw shall have no effect. The Parties shall thereafter meet and confer in good faith to determine whether a revised settlement can be reached and, if not, shall promptly notify the Court that the Settlement has been terminated.

10. MOTION FOR FINAL APPROVAL. No later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff shall file in Court a motion for final approval of the Settlement that includes a request for approval of the PAGA portion of the Settlement under Labor Code section 2699, subdivision (l), a proposed Order and Judgment Granting Final Approval the Settlement and (2) supporting documents. Plaintiff shall provide drafts of these documents to Defense Counsel seven (7) days prior to filing, and Class Counsel and Defense Counsel shall expeditiously meet and confer in good faith, in person or by telephone, to resolve any disagreements concerning the Motion for Final Approval.

10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days before the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement—including, without limitation, the scope of release to be granted by Class Members—the Parties shall expeditiously work together in good faith to address the Court's concerns by revising this Agreement as necessary to obtain Final Approval. If the Court does not grant Preliminary or Final Approval of the Settlement in all material respects and the Parties are unable to agree on revisions that satisfy the Court, the Settlement shall be void ab initio, have no force or effect whatsoever, and neither Party shall have any further obligation to perform under this Agreement; provided, however, that Defendant shall remain responsible for paying all Settlement Administration Expenses incurred to that point. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administration Expenses Payment shall not constitute a material modification within the meaning of this paragraph.

10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court shall retain jurisdiction over the Parties, the Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or the Judgment, (ii) addressing settlement-administration matters, and (iii) resolving such post-Judgment issues as are permitted by law.

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement—including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment—each Party, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided herein waive all rights to appeal from the Judgment, including rights to post-judgment and appellate proceedings, motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. This waiver does not include the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement shall be suspended until the appeal is finally resolved and the Judgment becomes final, except for matters that do not affect the amount of the Net Settlement Amount.

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement—including, without limitation, the scope of release to be granted by Class Members—this Agreement shall be null and void. Nevertheless, the Parties shall work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing equally (50-50) any additional Administration Expenses reasonably incurred after remittitur. An appellate decision modifying or reducing the Court's award of the Class Representative Service Payment or any payment to Class Counsel shall not constitute a material modification within the meaning of this paragraph, provided the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of disputed claims and is entered into solely to avoid the burden, expense, and uncertainty of continued litigation. Nothing in this Agreement shall be construed as or constitute an admission by Defendant that any of the allegations in the First Amended Complaint have merit or that Defendant has any liability for any of the claims asserted, nor shall it be construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment are for purposes of this Settlement only. If, for any reason, the Court does not grant Preliminary Approval, Final Approval, or enter Judgment, Defendant reserves the right to contest certification of any class or representative action for any reason, and Defendant reserves all available defenses to the claims in the Action. Plaintiff likewise reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action shall have no bearing on and shall not be admissible in any litigation, except as necessary to enforce or effectuate the terms of this Settlement or this Agreement.

12.2 Limited Confidentiality Prior to and Following Preliminary Approval. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of the Settlement is granted, they will not disclose, disseminate, or publicize, or cause or permit any other person to disclose, disseminate, or publicize, any of the terms of this Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom shall be instructed to keep this Agreement confidential; (2) to counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party shall immediately notify all other Parties of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant, and Defense Counsel further agree that, prior to the granting of the Motion for Preliminary Approval, they shall not, directly or indirectly, initiate any conversation or other communication with any third party regarding this Agreement or the matters giving rise to it, except to respond only that "the matter was resolved," or words to that effect. Nothing in this paragraph restricts Class Counsel's communications with Class Members in accordance with its ethical obligations.

12.3 No Solicitation. The Parties separately agree that they, their respective counsel, and their employees shall not solicit, encourage, or otherwise induce any Class Member to opt out of or object to the Settlement, or to appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement, together with all attached exhibits, shall constitute the entire integrated agreement between the Parties relating to the Settlement and shall supersede any and all prior or contemporaneous oral or written representations, warranties, covenants, agreements, or inducements made to or by any Party, including, without limitation, the Parties' Memorandum of Understanding.

12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, 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 reasonably required to effectuate the terms of this Agreement, including any amendments to this Agreement.

12.6 Cooperation. The Parties and their counsel shall cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying this Agreement as necessary, submitting supplemental evidence, and supplementing points and authorities as requested by the Court. If the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or upon any modification that may become necessary, the Parties shall refer any such disputes to the Mediator identified herein.

12.7 No Prior Assignments. The Parties separately represent 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 by the Party in this Settlement.

12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are providing any 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.

12.9 Modification of Agreement. This Agreement, 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.

12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits shall be governed by and interpreted according to the internal laws of the State of California, without regard to conflict-of-law principles. The Parties agree that this Settlement constitutes a compromise and resolution of disputed claims not involving undisputed wages and that California Labor Code section 206.5 is therefore inapplicable to this Settlement.

12.12 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.

12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to California Evidence Code section 1152, and all copies and summaries of Class Data provided by Defendant in connection with mediation, settlement negotiations, or the implementation of this Settlement, may be used only for purposes of administering and enforcing this Settlement and for no other purpose. Such information shall not be used in any manner that violates any contractual agreement, statute, or rule of court. No later than ninety (90) days after the Court discharges the Administrator's obligation to provide a declaration confirming the final payout of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of the Class Data received from Defendant unless, before that date, Defendant make a written request to Class Counsel for the return rather than the destruction of such Class Data.

12.15 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.

12.16 Calendar Days. Unless otherwise expressly stated, all references to "days" in this Agreement shall mean calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall automatically extend to the next business day.

12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Isandra Fernandez & Anthony L. Draper
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618

Email: isandra@jameshawkinsaplc.com; and
anthony@jameshawkinsaplc.com

To Defendant:

Rachael E. Brown
SWEENEY MASON, LLP
983 University Avenue, Suite 104C
Los Gatos, CA 95032
Email: REB@smllp.com

12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts, including by facsimile, electronically (for example, via DocuSign), or by email, and each such executed counterpart shall be deemed an original for all purposes. All executed counterparts, and each of them, shall together constitute one and the same instrument, and counsel for the Parties may exchange signed counterparts electronically. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this Agreement.

12.19 Stay of Litigation. Upon execution of this Agreement, the Parties agree that all proceedings in the Action shall be stayed, except as necessary to effectuate the terms of this Agreement and to seek Court approval of the Settlement. The Parties further agree that, pursuant to California Code of Civil Procedure section 583.330, the time period for bringing the Action to trial under Code of Civil Procedure section 583.310 shall be extended for the entire duration of the settlement-approval process.

BY PLAINTIFF

Dated: 12/2/2025

Firmado por:
204909EA01FD477...
BLADIMIR LOPEZ MILLAN

BY DEFENDANT

BOUTON CONSTRUCTION, INC.

Dated: ______________________

____
By:
Its: Authorized Signatory

BY PLAINTIFF'S COUNSEL

JAMES HAWKINS APLC

Dated: December 02, 2025

____
Isandra Fernandez
Anthony Draper
Attorneys for Plaintiff
Bladimir Lopez Millan

BY DEFENSE COUNSEL

SWEENEY MASON, LLP

Dated: ______________________

____
Rachael Brown
Attorneys for Defendant
Bouton Construction, Inc.

Email: isandra@jameshawkinsaplc.com; and
anthony@jameshawkinsaplc.com

To Defendant:

Rachael E. Brown
SWEENEY MASON, LLP
983 University Avenue, Suite 104C
Los Gatos, CA 95032
Email: REB@smllp.com

12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts, including by facsimile, electronically (for example, via DocuSign), or by email, and each such executed counterpart shall be deemed an original for all purposes. All executed counterparts, and each of them, shall together constitute one and the same instrument, and counsel for the Parties may exchange signed counterparts electronically. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this Agreement.

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BY PLAINTIFF

Dated: ______________________

____
BLADIMIR LOPEZ MILLAN

BY DEFENDANT

BOUTON CONSTRUCTION, INC.

Dated: 12-9-25

____
By: Chad Bouton
Its: Authorized Signatory

BY PLAINTIFF'S COUNSEL

JAMES HAWKINS APLC

Dated: ______________________ ____________________________

Isandra Fernandez
Anthony Draper
Attorneys for Plaintiff
Bladimir Lopez Millan

BY DEFENSE COUNSEL **SWEENEY MASON, LLP**

Dated: December 10, 2025 ____________________________

Rachael Brown
Attorneys for Defendant
Bouton Construction, Inc.

EXHIBIT A

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

Bladimir Lopez Millan v. Bouton Construction, Inc.
Santa Clara Superior Court, Case No. 20CV371719

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Bouton Construction, Inc.("BOUTON" and/or "Defendant") for alleged wage and hour violations that are denied by BOUTON. The Action was filed by a former employee of BOUTON, *Bladimir Lopez Millan*, ("Plaintiff"), and seeks payment of (1) back wages, penalties, and interest for a class of non-exempt employees who worked for Defendant during the Class Period (January 1, 2020 through April 30, 2025) ("Class Members"); and (2) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt employees who worked for Defendant during the PAGA Period (September 8, 2021 through April 30, 2025) ("Aggrieved Employees").

BOUTON denies the allegations in the Action, denies any failure to comply with the law, and denies any and all liability for the causes of action alleged in the Action. BOUTON, however, agreed to settle the Action to avoid the fees, costs, and time associated with the litigation of the Action.

The proposed Settlement has two main parts: (1) a Class Settlement requiring BOUTON to fund Individual Class Payments, and (2) a PAGA Settlement requiring BOUTON to fund Individual PAGA Payments and pay the California Labor and Workforce Development Agency ("LWDA").

Based on Defendant's records, and the Parties' current assumptions, **your gross Individual Class Payment is estimated to be $_______ (less withholding) and your Individual PAGA Payment is estimated to be $_______.** The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendant's records showing that **you worked as a non-exempt employee at BOUTON for ____ workweeks** during the Class Period and **____ pay periods** (one-week pay periods) during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period as a non-exempt employee, you can submit a challenge by the deadline date. See Section 4 of this Notice.

Although the Court has not issued any rulings on the merits of the case or concluded that BOUTON engaged in any wrongful conduct, the Court has preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment under which BOUTON will make payments consistent with the terms of the Settlement and which requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against BOUTON.

If you worked for BOUTON during the Class Period and/or the PAGA Period, referenced above, as a non-exempt employee you have two basic options under the Settlement:

(1) **Do Nothing**. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against BOUTON.

(2) **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting a written Request for Exclusion. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your ability to personally pursue Class Period wage claims against BOUTON, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

BOUTON will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against BOUTON that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement **The Opt-out Deadline is ___________, 2026**	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section **6** of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. BOUTON must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement **Written Objections Must be Submitted by ___________, 2026**	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section **7** of this Notice.
You Can Participate in the ___________, 2026 Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on ___________, 2026. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section **8** of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods **Written Challenges Must be Submitted by ___________, 2026**	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period as a non-exempt employee and how many Pay Periods you worked at least one day during the PAGA Period as a non-exempt employee, respectively. The number of Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by ___________, 2026. See Section **4** of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of BOUTON. The Action accuses BOUTON of violating California labor laws by failing to pay overtime wages, minimum wages, timely wages due during and/or upon termination, failing to pay reimbursable expenses, failing to provide meal periods, rest periods and accurate itemized wage statements and violation of Business and Professions Code§§ 17200, *et seq*. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by James Hawkins, Isandra Fernandez and Anthony Draper of James Hawkins APLC ("Class Counsel.")

BOUTON strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws. It, however, chose to settle the Action to avoid the fees, costs, disruption, and uncertainty associated with the litigation of the Action.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether BOUTON or Plaintiffs is/are correct on the merits. In the meantime, Plaintiff and BOUTON hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and BOUTON have voluntarily negotiated and mutually agreed upon a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, BOUTON does not admit any violations or concede the merit of any claims, nor does it agree that any of its employees suffered damages of any kind.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) BOUTON has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims, the strength of the defenses to those claims, and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. BOUTON Will Pay $825,000 as the Gross Settlement Amount (Gross Settlement). BOUTON has agreed to deposit the Gross Settlement into an account controlled by the neutral, third-party Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and amounts to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, BOUTON will fund the Gross Settlement not more than 15 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

   A. Up to $288,750 (35% of the Gross Settlement) to Class Counsel for attorneys' fees and up to $40,000 for their litigation expenses. To date, Class Counsel has worked and incurred expenses on the Action without payment.

   B. Up to $10,000 as a Class Representative Service Award to Plaintiff for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only money Plaintiff will receive other than Plaintiff's Individual Class Payments and any Individual PAGA Payments.

   C. Up to $8,000 to the Administrator for services administering the Settlement.

   D. Up to $50,000 for PAGA Penalties, allocated 75% ($37,500) to the LWDA PAGA Payment and 25% ($12,500) in Individual PAGA Payments to the Aggrieved

Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and BOUTON are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages ("Wage Portion") and 75% to penalties and interest. ("Non-Wage Portion.). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. BOUTON will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

   Although Plaintiff and BOUTON have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (180 days after the check is mailed). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check are sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _________________, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the ____________________ Response Deadline. The Request for Exclusion should be a letter from a Class Member or the Class Member's representative setting forth the Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against BOUTON.

   You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against BOUTON based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and BOUTON have agreed that, in either case, the Settlement will be void, BOUTON will not pay any money and Class Members will not release any claims against BOUTON.

8. Administrator. The Court has appointed a neutral company, Apex Class Action, LLC (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you agree to be subject to the release set forth below and you cannot sue, continue to sue, or be part of any other lawsuit against BOUTON or related entities for any form of damages or relief based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement, as described more fully in the release below.

The Participating Class Members will be bound by the following release:

> All Participating Class Members shall be deemed to have released and discharged the Released Parties from any and all claims, demands, causes of action, rights, liabilities, or damages of every kind and nature, known or unknown, suspected or unsuspected, arising during the Class Period and relating to the allegations in the Action, including: (a) all claims that were, or reasonably could have been, alleged based on the facts contained in the First Amended Complaint; and (b) any and all wage-and-hour or related statutory, regulatory, or common-law claims that could have been asserted based on the same facts, matters, transactions, or occurrences alleged therein, including claims premised on any duties or rights under California Labor Code sections 200, 201, 202, 203, 221, 225, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 1199, 2699, and 2802; California Code of Regulations, Title 8, section 11060 et seq., and any other applicable Industrial Welfare Commission ("IWC") Wage Orders; and Business and Professions Code sections 17200 through 17208.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, all Aggrieved Employees, whether or not they are Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, fully and forever release and discharge the Released Parties from all claims to recover civil penalties pursuant to the Private Attorneys General Act of 2004 ("PAGA") for alleged violations of the California Labor Code during the PAGA Period that were alleged, or reasonably could have been alleged,

in the PAGA Notice that Plaintiff submitted to the California Labor and Workforce Development Agency ("LWDA") or in the First Amended Complaint filed in this Action. The release includes all PAGA claims premised on alleged violations of Labor Code sections 200, 201, 202, 203, 221, 225, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, 1199, 2699, and 2802, which are resolved by this Settlement.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member. Participating Class Members assume full responsibility and liability for any taxes owed on their Individual Class Payment.

2. Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($13,750) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period as a non-exempt employee and the number of PAGA Pay Periods you worked during the PAGA Period as a non-exempt employee, as recorded in Defendant's records, are stated in the first page of this Notice. You have until ____________________ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

   You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them via First Class U.S. Mail, postage prepaid, to the Participating Class Members (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class

Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Millan Jr. v. Bouton Construction, Inc.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by ________________, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and BOUTON are asking the Court to approve. At least 16 court days before the ________________ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a request for attorney fees, litigation expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website ____________________________________ or the Court's website https://www.saccourt.ca.gov/

A Participating Class Member who disagrees with any aspect of the Agreement and/or the Motion for Final Approval may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is ________________.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the *Millan v. Bouton Construction, Inc.* Action and include your name, current address, telephone number, and approximate dates of employment for BOUTON and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on ____________ at ____________ in Department __ of Santa Clara Superior Court, located at 191 North First Street San Jose, CA 95113. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website ______________________________________ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

Class members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimize.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything BOUTON and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at ____________________________. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to website by going to https://www.saccourt.ca.gov and entering the Case Number for the Action, Case No. 20CV371719.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

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JAMES HAWKINS APLC
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Irvine, California 92618

Defendant's Counsel: Rachael E. Brown
SWEENEY MASON LLP
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Los Gatos, California 95032

Administrator:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.