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6 Attorneys for Plaintiffs
RENE BECKOM
7

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SACRAMENTO

11 RENE BECKOM, on behalf of himself and all
12 others similarly situated,

13 *Plaintiff,*

14 vs.

15 STRAUCH & COMPANY, a California
16 corporation; CAMERON PARK
17 PETROLEUM, INC., a California corporation;
18 STRAUCH BROTHER INCORPORATION,
19 a California corporation; STRAUCH
20 MANAGEMENT, LLC, a California
21 corporation; MARK B. STRAUCH, an
22 individual; MATTHEW C. STRAUCH, an
23 individual; and DOES 1 through 50, inclusive,

24 *Defendants*
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Case No.: 34-2020-00289457

**DECLARATION OF SHAUN SETAREH IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: March 10, 2023
Time: 9:00 a.m.
Place: Department 27

Complaint Filed: November 25, 2020
FAC Filed: March 22, 2021

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I, Shaun Setareh, declare as follows:

1. I am an attorney in good standing duly admitted to the State Bar of California, the principal attorney at Setareh Law Group, counsel of record for Plaintiff RENE BECKOM (“Plaintiff”) in this action against Defendants STRAUCH & COMPANY, CAMERON PARK PETROLEUM, INC., STRAUCH BROTHER INCORPORATION, STRAUCH MANAGEMENT, LLC, LINDA PETROLEUM, INC., M&M FUELS, INC., RANCHO CONVENIENCE CENTER, INC., WOODCREEK OAKS PETROLEUM, INC., MARC B. STRAUCH, and MATTHEW C. STRAUCH (collectively “Defendants”) (collectively with Plaintiff, the “Parties”) This declaration is made in support of Plaintiff’s Motion for Preliminary Approval of the Class Action Settlement.

2. Except for those matters stated on information and belief, which I am informed and believe are true and correct, I have personal knowledge of all matters set forth herein. If called as a witness, I could and would competently testify thereto.

3. I received my undergraduate degree from UCLA in 1996 and my law degree from Loyola Law School in 1999. Since being admitted to the State Bar of California in 1999, I have actively practiced civil litigation for the entirety of that time period.

4. I, and the attorneys at Setareh Law Group, have been involved as lead class counsel, co-lead class counsel, and other levels of involvement in over 100 wage-and-hour, consumer, and antitrust class action cases. Recently, Setareh Law Group represented the plaintiff in a Ninth Circuit victory involving the standards for motions to remand under the Class Action Fairness Act. *Harris v. KM Industrial, Inc.*, 980 F.3d 694 (9th Cir. November 13, 2020). Setareh Law Group was also counsel of record in *Rodriguez v. U.S. Healthworks*, 813 Fed.Appx. 315 (9th Cir. 2020) in which the Ninth Circuit reversed the trial court's order granting summary judgment. I was lead counsel in *Troester v. Starbucks Corporation*, et al., before the California Supreme Court, Case No. S234969, in which the Court issued a landmark decision that clarified and rejected the application of the widely adopted federal *de minimis* doctrine to California's wage-hour laws. For my work on that case, I received the California Lawyer of the Year or "CLAY" award. I was also lead counsel in a landmark Ninth Circuit decision interpreting the Fair Credit Reporting Act, *Gilberg v. California Check Cashing Stores, LLC*, 913 F.3d 1169 (9th Cir.

2019). Setareh Law Group has prevailed in its four most recent Ninth Circuit appeals including the *Gilberg*, *Rodriguez*, and *Harris* cases cited above, as well as the Ninth Circuit opinion following the California Supreme Court answering the Ninth Circuit's certified question. *Troester v. Starbucks Corp.*, 738 Fed. Appx. 562 (9th Cir. 2018.) Three of the four cases resulted in reversals of the trial court decision, with the remaining case (*Harris*) affirming a decision favorable to the Plaintiff. Setareh Law Group has more than 140 Westlaw citable opinions.

The following is a sampling of class actions in which I have been appointed as class counsel:

Federal Cases

a. *Cerdenia v. USA Truck, Inc.*, U.S. District Court, Central District of California, Case No. 10-CV-1489-JVS (granted final approval in an action on behalf of truck drivers for meal and rest period violations, off-the-clock pre- and post-shift work, and unauthorized wage deductions).

b. *Fronza v. Staffmark*, U.S. District Court, Northern District of California, Case No. 15-CV-02315-MEJ (granted final approval in a case involving alleged uncompensated security checks for warehouse workers).

c. *Garcia v. Am. Gen. Fin. Mgmt. Corp.*, U.S. District Court, Central District of California, Case No. 09-CV-1916 (granted final approval in a case filed on behalf of account managers in case involving, among other things, alleged overtime miscalculations and meal and rest period violations).

d. *Jones v. Shred-It USA, Inc.*, U.S. District Court, Central District of California, Case No. 11-CV-00526 (granted final approval in a case brought on behalf of customer service representatives and balers for alleged off-the-clock work and meal and rest period violations).

e. *O'Neill v. Genesis Logistics, Inc.*, U.S. District Court, Northern District of California, Case No. 08-CV-4707 (granted final approval in a case involving claims for failure to provide meal periods to employees who worked as drivers delivering goods to 7-11 stores throughout California and failure to pay final wages in a timely manner to terminated employees).

f. *Padilla v. UPS*, U.S. District Court, Central District of California, Case No. 08-

CV-1590 (granted final approval in a case involving claims for failure to provide meal periods to part time employees engaged in sort operations and failure to pay final wages in a timely manner to terminated employees).

g. *Pitre v. Wal-Mart Stores, Inc.*, U.S. District Court, Central District of California, Case No. 17-cv-01281-DOC (granting class certification against Wal-Mart for a class of almost 5,000,000 in a Fair Credit Reporting Act action).

h. *Utne v. Home Depot U.S.A., Inc.*, U.S. District Court, Northern District of California, Case No. 16-cv-01854-RS (granting class certification against Home Depot in connection with uncompensated off-the-clock work occurring at the start of all employee shifts and at the end of closing shifts).

i. *Vang v. Burlington Coat Factory Warehouse Corp.*, U.S. District Court, Central District of California Case No. 09-CV-8061 (granted final approval in a case involving, among other things, vacation pay forfeitures, failures to provide meal and rest periods, and failures to pay overtime wages based on employee misclassification).

j. *Wilson v. TE Connectivity*, Northern District of California Case No. 3:14-cv-04872-EDL (granted class certification through contested motion in case on behalf of manufacturing facility employees subject to auto-deduction of meal breaks).

State Cases

k. *Alvarez v. Gary Grace Enterprises, LP*, Marin Superior Court, Case No. CIV 1002553 (granted final approval in a case on behalf of hair salon employees for overtime miscalculation and related claims).

l. *Butler v. Lexxiom, Inc.*, San Bernardino Superior Court, Case No. CIVRS 1001579 (granted final approval in an action on behalf of debt resolution center employees alleging, among other things, meal and rest period violations and overtime calculation errors).

m. *Calderon v. GreatCall, Inc.*, San Diego Superior Court, Case No. 37-2010-00093743-CU-OE-CTL (granted final approval in a case on behalf of customer service employees for, among other things, alleged meal and rest period violations and overtime calculation errors).

1 n. *Douglas v. California Credit Union*, Los Angeles Superior Court, Case No.
2 BC445050 (granted final approval in a case on behalf of customer service representatives
3 alleging overtime miscalculation claims).

4 o. *Green v. Staples Contract and Commercial, Inc.*, Los Angeles Superior Court,
5 Case No. BC389789 (granted final approval in a case involving claims for unprovided meal and
6 rest periods, inaccurate wage statements, waiting time penalties, and unfair business practices on
7 behalf of truck drivers delivering Staples office supplies in California).

8 p. *Green v. Universal Music Group*, Los Angeles Superior Court, Case No.
9 BC374253 (granted final approval in a case involving misclassification claims of current or
10 former IT Support employees, including engineers, server analysts, desktop support, and
11 technical leads).

12 q. *Sandoval v. Rite Aid Corp.*, Los Angeles County Superior Court, Case No.
13 BC431249 (granted class certification through contested motion in case on behalf of former
14 pharmacy employees based on late final wage payments in violation of Labor Code §§ 201–203;
15 subsequently granted final approval of class action settlement).

16 r. *Spokes v. Lush Cosmetics, LLC*, Los Angeles Superior Court, Case No.
17 BC391397 (granted final approval in a case alleging failures to provide meal and rest periods and
18 failure to timely pay all final wages to California sales associates and key holders).

19 s. *Valencia v. SCIS Air Security Corp.*, Los Angeles Superior Court, Case No.
20 BC421485 (granted class certification through contested motion in case on behalf of former
21 security workers based on late final wage payments in violation of Labor Code §§ 201–203;
22 subsequently granted preliminary approval of proposed class action settlement).

23 5. As the above shows, I have substantial experience in wage-and-hour class action
24 litigation, including actions alleging failure to provide meal and/or rest periods, failure to pay wages,
25 failure to provide accurate wage statements, failure to provide timely final wage payments, and other
26 related claims. I am knowledgeable about the applicable law, have worked diligently to investigate and
27 identify the potential claims in this action, and will continue to commit my firm’s resources to further the
28 interests of the Class. I and my firm have no conflicts of interest with Plaintiff and with absent class

1 members.

2 6. Plaintiff propounded written discovery on June 9, 2021. Defendants provided written
3 responses on August 31, 2021. The Parties thereafter met and conferred regarding the need for
4 supplemental responses. Plaintiff filed motions to compel further responses to interrogatories and
5 requests for production of documents, as to three of the named Defendants, on January 6, 2022. (See
6 Plaintiff's Motions to Compel, on file herein.)

7 7. Thereafter, the Parties agreed to attend mediation to attempt to resolve the action entirely
8 and further agreed to engage in informal discovery in advance and in preparation thereof. Defendants'
9 volumes of records and documents. This included a sample of pay and time records, relevant policies;
10 and other documents relevant to the litigation. These records allowed Plaintiff to analyze the potential
11 liability of Defendants for the alleged claims. Plaintiff hired an expert to hire analyze the produced data
12 with respect to potential damages and penalties in preparation for mediation.

13 8. Plaintiff and Defendants engaged extensively in informal discovery prior to resolving the
14 Action. Specifically, the Parties engaged in formal, informal, and voluntary exchange of information in
15 the context of privileged settlement discussions to facilitate an early mediation. Defendants produced
16 volumes of time and pay data for class members, as well as relevant written policies for the claims at issue.
17 These records allowed Plaintiff to calculate average pay rate among the Class Members, as well as analyze
18 the potential liability of Defendants. Plaintiff hired an expert to analyze the produced data with respect to
19 potential damages and penalties in preparation for mediation. From the data and other documents obtained
20 from Defendant pertaining to the Class and Defendant's policies, Plaintiff's expert was able to analyze the
21 data sampling, and Plaintiff was then able to thoroughly assess the merits of each claim.

22 9. The Parties agreed to mediate Plaintiff's alleged wage and hour and PAGA claims with
23 respected mediator Todd Smith on October 25, 2021. While the matter did not settle at mediation, the
24 Parties continued to work toward settlement with the assistance of Mr. Smith. The Parties reached a
25 tentative agreement and executed a memorandum of understanding on April 15, 2022.

26 10. During the settlement negotiations, all Parties, represented by their respective counsel,
27 recognized the substantial risk of an adverse result in the Action, and the Parties agreed to avoid further
28 litigation by settling and resolving all claims alleged against Defendant in Plaintiff's operative complaint.

Counsel believes the proposed settlement is fair, reasonable, and adequate in light of the complexities of the case, the uncertainties of further litigation, and that it represents a fair and reasonable recovery for the Settlement Class. The Parties have not engaged in any collusion or improper negotiations.

11. At the time of mediation, Defendant provided certain data points that included payroll data for the putative class during the relevant class period. This enabled Plaintiff's damages expert to review the data and to prepare a comprehensive damage analysis for the purposes of mediation.

The following chart provides the estimated potential recovery on a class basis that Plaintiff believes he could reasonably achieve *if he were to prevail on all his causes of action*:

Plaintiff's Estimated Potential Recovery		
Assumptions During Class Period (based on time/payroll data provided by Defendants) Class Count: 2,931; Number of Shifts: 51,000 Average Rate of Pay: \$14.00 Average Overtime Rate of Pay: \$21.00 Pay periods within Wage Statement period: Formerly Employed Class Members: 1,605 Class Members in the 226/PAGA Period (1 year limitations period): 1,210 Period for 1-year Class Members: 2,900		
Cause of Action	Estimated Potential Recovery	Calculations for Estimated Potential Recovery
Unpaid Overtime	\$535,500.00	.5 hours a shift x 51,000 shifts x \$21.00/hour
Rest Period Premiums	\$714,000	\$14 x 51,000 shifts
Meal Period Premiums	\$714,000	14 x 51,000 shifts
Sub-Total Unpaid Wages	\$1,963,500.00	
Labor Code § 203 Penalties	\$5,392,800	1,605 former employees x 8 hours x 30 days x \$14/hour
Labor Code § 226 Penalties	\$229,500	1,210 initial violations at \$50, and 1,690 subsequent violations at \$100
TOTAL	\$7,585,800.00	

PAGA Penalties	\$290,000
<i>Total if PAGA included</i>	<i>\$7,875,800</i>

12. Despite a total potential recovery of a little more than \$7 million on all class claims, including statutory penalties, Plaintiff recognizes the challenges he faces in certifying a class action and establishing liability on the wage and hour claims. Plaintiff estimates that his likelihood of prevailing on all his causes of action are extremely low and thus his likelihood of recovering \$7 million or anything close to that amount on behalf of a class is very unlikely. For those claims, if any, that are certified for class treatment, Plaintiff must prevail at a trial on the merits. In addition to having to prove that Plaintiff and other workers were not paid for all hours worked, Plaintiff must establish willfulness with respect to his waiting time penalties claim under Labor Code Section 203.

13. With respect to the claims asserted on behalf of the settlement classes in this case, there are significant risks that support the reduced compromise amount. These risks include, but are not limited to the following:

(i) The risk that Plaintiff would be unable to establish liability for allegedly unpaid overtime wages. *See Duran v. US Bank Nat'l Ass'n* (2014) 59 Cal.4th 1, 39 & fn. 33 ("*Duran*"), citing *Dilts v. Penske Logistics* (S.D. Cal. 2014) LLC 2014 WL 205039 (dismissing certified off-the-clock claims based on proof at trial). Defendants contend, e.g., that overtime was properly paid or not due or owing across the putative Class as alleged by Plaintiff.

(ii) The risk that Plaintiff would not be able to prove liability for alleged failure to provide compliant rest breaks; or that to establish liability for the failure to provide compliant rest breaks would require an individualized inquiry that would prevent these issues from being resolved on a class and/or collective basis. Plaintiff alleged employees were regularly not provided rest breaks; which Defendants deny.

(iii) The risk that Plaintiff would not recover waiting time and wage statement penalties pursuant to Labor Code sections 203 and 226. For example, there is currently a split of authority as to

1 whether such penalties can be obtained based on failure to provide rest breaks. *See, e.g., Singletary v.*
2 *Teavana Corporation* (N.D. Cal. May 2, 2014) 2014 WL 1760884, *4 (noting that “the law in this area is
3 murky at best” and holding that section 203 penalties are not applicable to meal and rest break claims).
4 Plaintiff also might not prove that Defendant acted with the intent necessary for the alleged claims for
5 penalties under Labor Code sections 203 and 226. Specifically, section 203 requires that a plaintiff show
6 the employer committed a “willful” violation of the law in withholding wages. “A good faith dispute that
7 any wages are due will preclude imposition of waiting time penalties under Section 203.” 8 Cal. Code
8 Regs. § 13520. Similarly, penalties pursuant to section 226 require a “knowing and intentional” violation.
9 Defendant contends that it would present several good faith defenses that would preclude a finding of
10 willfulness under section 203. *See Choate v. Celite Corp.* (2013) 215 Cal. App.4th 1460 (reversing award
11 of section 203 penalties based on good faith defense where underlying wage claim presented issue of first
12 impression). Any such good faith dispute could preclude penalties.

13 (iv) The risk that Defendants challenged employment policies might not ultimately support
14 class certification or a class-wide liability finding, *see, Duran*, 59 Cal. 4th at 14 & fn. 28 (citing Court of
15 Appeal decisions favorable on class certification issue without expressing opinion as to ultimate viability
16 of proposition). Defendants have contended, for example, that they did not have a purported policy of not
17 paying required compensation, but rather a policy of paying compensation and of requiring employees to
18 report any unpaid compensable time, and that any failures to report by employees cannot be legally charged
19 to Defendants and, in any event, involve such highly individualized circumstances as to prevent class and
20 collective certification should this case be litigated. *See, e.g., Morillion v. Royal Packing Co.* (2000) 22
21 Cal. 4th 575, 585 (employer not required to pay employees for time spent performing work of which the
22 employer had no knowledge).

23 (v) For the same reasons, liability, damages recovery, and certification risks are heightened
24 given: (1) the risk that uncertainties pertaining to the ultimate legality of Defendants’ policies and practices
25 could preclude class-wide awards of statutory penalties under Labor Code section 226(e); (2) the risk that
26 individual differences between settlement Class Members could be construed as pertaining to liability, and
27 not solely to damages, *see, Duran*, 59 Cal.4th at 19; and (3) the risk that class or collective treatment could
28 be deemed improper as to one or more claims except for settlement purposes.

1 (vi) The risk that any civil penalties awarded under PAGA could be reduced by the Court in its
2 discretion could materially impact the recovery by the Classes, *see* Labor Code section 2699(e)(1).

3 (vii) The risk that lengthy appellate litigation could ensue as to both liability and certification
4 issues, with associated litigation risk and costs, further enhances the value of a confirmed settlement as
5 opposed to unpredictable litigation.

6 (viii) Although the PAGA penalties calculated by Plaintiff's expert amounts to an extravagant
7 \$290,000, that amount is not likely to bear fruit in this case. Most significantly, the ultimate decision as to
8 the amount of penalties is always up to the discretion of the Court. Labor Code § 2699(e)(2) states: "In
9 any action by an aggrieved employee seeking recovery of a civil penalty available under subdivision (a)
10 or (f), a court may award a lesser amount than the maximum civil penalty amount specified by this part if,
11 based on the facts and circumstances of the particular case, to do otherwise would result in an award that
12 is unjust, arbitrary and oppressive, or confiscatory." Subdivision (a) states, "Notwithstanding any other
13 provision of law, any provision of this code that provides for a civil penalty to be assessed and collected
14 by the Labor and Workforce Development Agency or any of its departments, divisions, commissions,
15 boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
16 civil action brought by an aggrieved employee on behalf of himself or herself and other current or former
17 employees pursuant to the procedures specified in Section 2699.3." Subdivision (f) specifies the penalties
18 in instances where the underlying statute does not specify any civil penalty. In other words, where the
19 facts and circumstances of the particular case demonstrate that an unreduced award would be "unjust,
20 arbitrary and oppressive, or confiscatory," the court (or arbitrator) may reduce the award so as to ameliorate
21 any such finding.

22 In these respects, Defendants strongly deny any liability and the propriety of class certification for
23 any reason other than settlement. Continued litigation of this lawsuit presented Plaintiff and Defendants
24 with substantial legal risks that were (and continue to be) very difficult to assess.

25 In light of the uncertainties of protracted litigation, the Settlement amount reflects a fair and
26 reasonable recovery for the Class Members. The Settlement amount is, of course, a compromise figure.
27 By necessity, it took into account risks related to liability, damages, class action certification, and all the
28 defenses asserted by Defendants as to all such matters. Moreover, each Class Member will be given the

1 opportunity to opt out of the Settlement, allowing those who feel they have claims that are greater than the
2 benefits they can receive under this Settlement to pursue their own claims.

3 14. Plaintiff is a typical class representative. Like Class Members, Plaintiff was an hourly non-
4 exempt employee of Defendants in California. Plaintiff alleges that he and the putative class members was
5 not paid all wages and overtime owed, was not provided with compliant meal and rest breaks, and did not
6 receive accurate wage statements. Plaintiff has no conflict of interest with the Settlement Class Members
7 and has agreed to place the Class's interests above his own. Setareh Law Group also has no conflicts of
8 interest with the Settlement Class Members.

9 15. The requested service award of \$5,000 to Plaintiff is warranted. Plaintiff spent considerable
10 time speaking with his counsel, gathering documents, responding to discovery, participating in mediation,
11 and reviewing the Settlement. Plaintiff also took on the risk of facing intrusive discovery, facing a potential
12 costs award, and the risk that being involved in litigation would be viewed unfavorably by potential
13 employers.

14 16. A true and correct copy of the Joint Stipulation of Class Action Settlement Agreement (the
15 "Settlement") executed by the Parties is attached hereto as **Exhibit 1**.

16 17. A true and correct copy of the proposed Notice of Class Action and PAGA Settlement is
17 attached as **Exhibit 1** to the Settlement.

18 *Attorneys' Fees*

19 18. The amount of Class Counsel's fee request (one-third of the Gross Settlement Amount) is
20 reasonable as a percentage of the settlement fund. I have been awarded attorneys' fees equaling
21 approximately one-third of the fund in several recent wage and hour class actions, including, but not limited
22 to: *O'Brien v. Optima Network Services, Inc.*, San Bernardino County Superior Court, Case No.
23 CIVRS1107056 (one-third of settlement fund); *Noyd v. The Cristcat Group, et al.*, Los Angeles County
24 Superior Court, Case No. BC439558 (one-third of settlement fund); *Perez v. Southwest Dealer Services,*
25 *Inc.*, Los Angeles County Superior Court, Case No. BC439253 (one-third of settlement fund); *Alvarez v.*
26 *Gary Grace Enterprises, LP*, Marin County Superior Court, Case No. CIV1002553 (one-third of
27 settlement fund); *Calderon v. Greatcall, Inc.*, San Diego Superior Court, Case No. 37-2010-00093743-
28 CU-OE-CTL (one-third of settlement fund); *Butler v. Lexxiom, Inc.*, San Bernardino County Superior

1 Court, Case No. CIVRS1001579 (one-third of settlement fund); *Huynh v. Carefusion Resources, LLC, et*
2 *al*, San Diego County Superior Court, Case No. 37-2009-00103277-CU-OE-CTL (one-third of settlement
3 fund); *Stucker v. L'Oreal USA S/D, Inc.*, Los Angeles County Superior Court, Case No. BC456080 (one-
4 third of settlement fund); *Sandoval v. Thrifty Payless, Inc.*, Los Angeles County Superior Court, Case No.
5 BC431249 (one-third of settlement fund); *Tucker v. Maly's West, Inc.*, Los Angeles County Superior Court,
6 Case No. BC483920 (one-third of settlement fund); *Tiwari v. Merrill's Packaging*, San Mateo Superior
7 Court, Case No. 519070 (one-third of settlement fund); *Montgomery v. Del Monte Corp., et al*, Kings
8 County Case No. 13C0204 (one-third of settlement fund); *Adams v. Medical Staffing Network, et al*,
9 Sacramento County Case No. 34-2012-00137491-CU-OE-GDS (33% of gross settlement fund).

10 ***Settlement Administrator***

11 19. The Parties propose ILYM Group as the administrator in this matter. ILYM is an
12 experienced class action settlement administrator. Based on my experience, settlement administration
13 costs will not exceed \$26,000 for the estimated 2,931 class members.

14 ***LWDA Notice***

15 20. On February 15, 2023, David Keledjian, an attorney at Setareh Law Group, uploaded
16 copies of the Settlement and the Motion for Preliminary Approval of Class Action Settlement and
17 Certification of Settlement Class to the California Labor Workforce and Development Agency ("LWDA").
18 A true and correct copy of the email from the LWDA confirming the submission is attached hereto as

19 **Exhibit 2.**

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The Parties

21. Defendants provide fuel, convenience, and carwash services throughout California. Plaintiff has been working for Defendants as a non-exempt hourly employee from around November of 2019 through February of 2020.

I declare under the penalty of perjury of the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed this 15th day of February 2022 in Beverly Hills, California.



Shaun Setareh

EXHIBIT 1

1 Shaun Setareh (SBN 204514)
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2 David Keledjian (SBN 309135)
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3 **SETAREH LAW GROUP**
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6 Attorneys for Plaintiff RENE BECKOM

7 [counsel continued on next age]

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SACRAMENTO

11 UNLIMITED JURISDICTION

12 RENE BECKOM, on behalf of himself and all
others similarly situated,

13 *Plaintiff,*

14 vs.

15 STRAUCH & COMPANY, a California
16 corporation; CAMERON PARK
PETROLEUM, INC., a California corporation;
17 STRAUCH BROTHER INCORPORATION,
a California corporation; STRAUCH
18 MANAGEMENT, LLC, a California
corporation; MARK B. STRAUCH, an
19 individual; MATTHEW C. STRAUCH, an
individual; and DOES 1 through 50, inclusive,

20 *Defendants.*
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Case No. 34-2020-00289457

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

Complaint Filed: November 25, 2020
FAC Filed: March 22, 2021

1 Alicia R. Kennon (State Bar No. 240569)
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2 Kristin A. Smith (State Bar No. 242643)
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3 **WOOD, SMITH, HENNING & BERMAN LLP**
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5 Cell: 510 282 3067

6 STRAUCH & COMPANY, CAMERON PARK
PETROLEUM, INC., STRAUCH BROTHER
7 INCORPORATION (also sued erroneously as
STRAUCH BROTHERS, INC. and STRAUCH
8 BROTHERS INCORPORATING), STRAUCH
MANAGEMENT, LLC, LINDA PETROLEUM,
9 INC., M & M FUELS, INC., RANCHO
CONVENIENCE CENTER, INC., and
10 WOODCREEK OAKS PETROLEUM, INC.;
MARC B. STRAUCH (erroneously sued as Mark
11 Strauch) and MATTHEW C. STRAUCH

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1 This Joint Stipulation of Class Action and PAGA Settlement and Release of Claims
2 (“Settlement Agreement” or “Agreement”) is made and entered into by and between Plaintiff RENE
3 BECKOM (“Plaintiff” or “Class Representative”), individually and on behalf of all putative class
4 members and as a proxy/agent for the State of California on behalf of all “aggrieved employees”, and
5 Defendants STRAUCH & COMPANY, CAMERON PARK PETROLEUM, INC., STRAUCH
6 BROTHER INCORPORATION, STRAUCH MANAGEMENT, LLC, LINDA PETROLEUM,
7 INC., M&M FUELS, INC., RANCHO CONVENIENCE CENTER, INC., WOODCREEK OAKS
8 PETROLEUM, INC., MARC B. STRAUCH, and MATTHEW C. STRAUCH (collectively
9 “Defendants”) (both collectively referred to herein as the “Parties.”)

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

11 This Joint Stipulation of Class Action Settlement and Release (“Settlement” or “Settlement
12 Agreement” or “Agreement” or “Stipulation of Settlement”) is made and entered into by and between
13 Plaintiff Rene Beckom (“Plaintiff” or “Class Representative”), as an individual and on behalf of all
14 others similarly situated, and Defendants Strauch & Company, Cameron Park Petroleum, Inc.,
15 Strauch Brother Incorporation (also sued erroneously as Strauch Brothers, Inc. and Strauch Brothers
16 Incorporating), Strauch Management LLC, Linda Petroleum, Inc., M&M Fuels, Inc., Rancho
17 Convenience Center, Inc., Woodcreek Oaks Petroleum, Inc., Marc B. Strauch (erroneously sued as
18 Mark Strauch) and Matthew C. Strauch (“Defendants”) (collectively with Plaintiff, the “Parties”).

19 **DEFINITIONS**

20 Subject to the approval of the Court, the following definitions are applicable to this Settlement
21 Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective::

22 1. **“Action”** shall mean the civil action commenced on November 24, 2020, and amended
23 on March 22, 2021, by Plaintiff against Defendants in the Superior Court of California, County of
24 Sacramento, Case No.: 34-2020-00289457, entitled: *“Rene Beckom v. Strauch & Company, et al.”*

25 2. **“Attorneys’ Fees, Costs and Expenses”** shall mean attorneys’ fees agreed upon by
26 the Parties and approved by the Court for The Setareh Law Group’s (“Class Counsel”) litigation and
27 resolution of the Action, and all out-of-pocket costs incurred and to be incurred by Class Counsel in
28 the Action, including but not limited to expert/consultant fees, investigation costs, and costs

1 associated with documenting the Settlement, providing any notices required as part of the Settlement
2 or Court order, securing the Court's approval of the Settlement, administering the Settlement, and
3 obtaining entry of a Judgment terminating the Action. Class Counsel will request attorneys' fees not
4 in excess of one-third (1/3) of the Class Settlement Amount, or Nine Hundred Thousand Dollars
5 (\$900,000.00). The Attorneys' Fees, Costs and Expenses will also include the additional
6 reimbursement of any costs and expenses associated with Class Counsel's litigation and settlement
7 of this Action, up to Twenty Thousand Dollars (\$20,000.00), subject to the Court's approval.
8 Defendants have agreed not to oppose Class Counsel's request for the fees and reimbursement of
9 costs as set forth above.

10 3. **"Claims Administrator"** shall mean ILYM Group or other third-party Claims
11 Administrator proposed by the Parties and appointed by the Court to administer the Settlement.

12 4. **"Class," "Class Members," or "Settlement Class"** shall mean all individuals
13 employed by Defendants STRAUCH & COMPANY, CAMERON PARK PETROLEUM, INC.,
14 STRAUCH BROTHER INCORPORATION, STRAUCH MANAGEMENT, LLC, LINDA
15 PETROLEUM, INC., M&M FUELS, INC., RANCHO CONVENIENCE CENTER, INC.,
16 WOODCREEK OAKS PETROLEUM, INC., MARC B. STRAUCH, and MATTHEW C.
17 STRAUCH (collectively "Defendants") who performed work for any of said Defendants in hourly or
18 non-exempt positions in California on or after November 24, 2016 through February 4, 2022.

19 5. **"Class Counsel"** shall mean the attorneys representing Plaintiff and the Class in the
20 Action: Shaun Setareh and David Keledjian of the Setareh Law Group.

21 6. **"Class Period"** shall mean the period of time from November 24, 2016, through
22 February 4, 2022.

23 7. **Class Representative Service Award and General Release Payment** shall mean
24 the amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the Action on
25 behalf of Class Members and the amount to be paid to Plaintiff in exchange for a general release of
26 all claims arising out of his employment with Defendants. Subject to the Court granting final approval
27 of this Settlement Agreement and subject to the exhaustion of any and all appeals, Plaintiff will
28 request Court approval of a Class Representative Service Award and General Release Payment of

1 Five Thousand Dollars (\$5,000.00) allocated as two payments of Two Thousand Five Hundred
2 Dollars (\$2,500.00) each.

3 8. **"Court"** shall mean the Superior Court for the County of Sacramento.

4 9. **"Defense Counsel"** shall mean the attorneys representing Defendants in the Action:
5 Alicia R. Kennon and Kristin A. Smith of WOOD, SMITH, HENNING & BERMAN LLP.

6 10. **"Effective Date"** shall mean the later of: (i) the date of Final Approval (if no timely
7 objections are filed, or are withdrawn prior to Final Approval); (ii) the sixty-first (61) calendar day
8 after the date of Final Approval (if a Class Member files an objection to the Settlement, provided no
9 appeal is initiated by an objector); or (iii) the date of final resolution of any timely appeal initiated by
10 an objector appeal (including any requests for rehearing and/or petitions for certiorari), resulting in
11 final judicial approval of the Settlement.

12 11. **"Final Approval Hearing"** shall mean the hearing to be conducted by the Court
13 pursuant to California Rules of Court, Rule 3.769(a), to determine whether to approve finally, and
14 implement the terms of, this Agreement pursuant to a Judgment (the "Judgment").

15 12. **"Gross Settlement Amount"** ("GSA") means the Class Settlement Amount of Two
16 Million Seven Hundred Thousand Dollars (\$2,700,000.00), to be paid by Defendants in full
17 satisfaction of all Released Claims arising from this Action, which includes the Individual Settlement
18 Payments, Attorneys' Fees, Costs and Expenses, Class Representative Service Award and General
19 Release Payment, LWDA Payment, and Settlement Administration Costs. It is estimated that there
20 are approximately 51,000 (fifty-one thousand) workweeks applicable to Class Members during the
21 Class Period and Defendants certify this estimate. If the total number of workweeks increases by more
22 than twelve percent (12%) of the total workweeks figure (i.e., increases to more than 57,120
23 workweeks), then at Defendants' sole option, either: (a) the Class Settlement Amount shall be
24 augmented by Defendant in proportion to the amount by which the total workweeks figure increased
25 above 12%; or (b), notwithstanding the definition of "Class Period" in Paragraph 6 the Class Period
26 end date shall be adjusted to be the date on which the total workweeks figure rose to 57,121
27 workweeks. There will be no reversion of the Class Settlement Amount to Defendants where checks
28 issued to Class Members remain uncashed for 180 days, save by Court order. Defendants will be

1 separately responsible for any employer payroll taxes required by law, including the employer FICA,
2 FUTA, and SDI contributions, which shall not be paid from the Class Settlement Amount.

3 13. **"Individual Settlement Payment"** shall mean each Participating Class Member's
4 respective share of the Net Settlement Amount.

5 14. **"Judgment"** shall mean the Order of Final Approval of Settlement and Judgment
6 entered by the Court pursuant to California Rules of Court, Rule 3.769(h), that the Parties anticipate
7 will be entered following a Final Approval Hearing on the Settlement in this Action. The Court shall
8 retain jurisdiction to enforce the terms of the Settlement following entry of the Judgment.

9 15. **"LWDA Payment"** shall mean the amount that the Parties have agreed to pay to the
10 Labor and Workforce Development Agency ("LWDA") in connection with the Labor Code Private
11 Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). The Parties have agreed
12 that Two Hundred Thousand Dollars (\$200,000.00) of the Class Settlement Amount will be allocated
13 to the resolution of Class Members' claims arising under PAGA. Pursuant to PAGA, Seventy-Five
14 Percent (75%), or One Hundred Fifty Thousand Dollars (\$150,000.00), of the PAGA Settlement
15 Amount will be paid to the LWDA, and Twenty-Five Percent (25%), or Fifty Thousand Dollars
16 (\$50,000.00), of the PAGA Settlement Amount will be included in the Net Settlement Amount.

17 16. **"Notice of Objection"** shall mean a Class Member's valid and timely written
18 objection to the Settlement Agreement. For the Notice of Objection to be valid, it must include: (i)
19 the objector's full name, address, telephone number, signature and date signed, (ii) a written statement
20 of all grounds for the objection accompanied by any legal support for such objection; (iii) copies of
21 any papers, briefs, or other documents upon which the objection is based; and (iv) a statement whether
22 the objector intends to appear at the final fairness hearing. Any Class Member who does not submit
23 a timely written objection to the Settlement, or who fails to otherwise comply with the specific and
24 technical requirements of this section, will be foreclosed from objecting to the Settlement and seeking
25 any adjudication or review of the Settlement, by appeal or otherwise.

26 17. **"Notice Packet"** shall mean the Notice of Class Action Settlement, substantially in
27 the form attached as Exhibit "1".

28 18. **"Parties"** shall mean Plaintiff and Defendants collectively.

1 19. **“Participating Class Members”** shall mean all Class Members who do not submit
2 timely and valid Requests for Exclusion.

3 20. **“PAGA Period”** shall mean the period of time from November 24, 2019 through
4 February 4, 2022.

5 21. **“PAGA Employee(s)”** shall mean those Class Members who were employed during
6 the PAGA Period and who received at least one or more paychecks on one or more payroll periods
7 during the PAGA Period as an alleged “aggrieved employee.”

8 22. **“PAGA Settlement Amount”** shall mean the total amount approved by the Court to
9 settle the PAGA claims, including the payment to the LWDA, which will be paid on a *pro rata* basis
10 to the PAGA Employees after the payment to the LWDA, even if the Employee opts-out of the Action.

11 23. **“Preliminary Approval of the Settlement”** shall mean the Court’s preliminary
12 approval of the Settlement without material change.

13 24. **“Released Claims”** shall mean any and all actions, causes of action, rights, liabilities,
14 obligations, costs, expenses, damages, losses, claims, liabilities, suits, debts, demands, and benefits
15 (including attorneys’ fees and costs), in law or in equity, known or unknown, suspected or
16 unsuspected, matured or unmatured, based on or reasonably related to any act, omission, event,
17 occurrence, or non-occurrence of said event alleged in Plaintiff’s operative Complaint and/or PAGA
18 Notice which occurred during the Class Period, or which could have been alleged arising from the
19 same set of operative facts alleged in the operative Complaint in the Lawsuit, including but not limited
20 to: (i) all claims for meal period violations; (ii) all claims for rest break violations; (iii) all claims for
21 unpaid hourly wages; (iv) all claims for unpaid overtime; (v) all claims for the failure to timely pay
22 wages during employment based on the preceding claims; (vi) all claims for wage statement violations
23 based on the preceding claims; (vii) all claims for the failure to timely pay wages upon termination
24 based on the preceding claims; (viii) all claims asserted through California Business & Professions
25 Code §§ 17200, *et seq.* based on the preceding claims; (ix) and all claims asserted through the Labor
26 Code Private Attorneys General Act, California Labor Code §§ 2698, *et seq.* based on the preceding
27 claims.

28 25. **“Released Parties”** shall mean Defendants, and any of their respective affiliates,

1 subsidiaries, parent companies, respective successors and predecessors in interest, related companies,
2 partners, officers, directors, managers, servants, agents, past or present officers, directors,
3 shareholders, principals, heirs, representatives, accountants, auditors, consultants, insurers and
4 reinsurers, employees, former employees, representatives, and attorneys, past or present, and all
5 persons acting under, by, through, or in concert with any of them, if any.

6 26. **"Request for Exclusion"** shall mean a timely letter submitted by a Class Member
7 indicating a request to be excluded from the Settlement. The Request for Exclusion must: (i) set forth
8 the name, address, telephone number and last four digits of the Social Security Number of the Class
9 Member requesting exclusion; (ii) be signed and dated by the Class Member; (iii) be returned to the
10 Claims Administrator; (iv) expressly and clearly state that the Class Member received the Notice of
11 Class Action Settlement, has decided not to participate in the Settlement, and wants to be excluded
12 from the Settlement; and (v) be faxed or postmarked on or before the Response Deadline.

13 27. **"Response Deadline"** shall mean the deadline by which Class Members must
14 postmark or fax to the Claims Administrator Requests for Exclusion, or postmark Notices of
15 Objection to the Claims Administrator. The Response Deadline will be thirty (30) calendar days from
16 the initial mailing of the Notice Packet by the Claims Administrator, unless the thirtieth (30th)
17 calendar day falls on a Sunday or State holiday, in which case the Response Deadline will be extended
18 to the next day on which the U.S. Postal Service is open.

19 28. **"Settlement Administration Costs"** shall mean the costs payable from the Class
20 Settlement Amount to the Claims Administrator for administering this Settlement, including, but not
21 limited to, printing, distributing, and tracking documents for this Settlement, tax reporting,
22 distributing the Class Settlement Amount, and providing necessary reports and declarations, as
23 requested by the Parties. The Settlement Administration Costs will be paid from the Class Settlement
24 Amount, including, if necessary, any such costs in excess of the amount represented by the Claims
25 Administrator as being the maximum costs necessary to administer the Settlement. Based on an
26 estimated Settlement Class of approximately Two Thousand Nine Hundred Thirty One (2,931) Class
27 Members, the Settlement Administration Costs are currently estimated to be Twenty Six Thousand
28 Dollars (\$26,000).

29. **“Settlement”** shall mean the disposition of the Action and all related claims effectuated by this Agreement.

TERMS OF AGREEMENT

30. **Non-Admission of Liability.** The Parties enter into this Settlement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Settlement, Defendants do not admit, and specifically deny, that they violated any federal, state, or local law, or any ordinance or provision; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to their employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, will be construed as an admission or concession by Defendants of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement, this Settlement Agreement and its terms and provisions will not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendants, or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

31. **Full, Total and Entire Class Settlement Amount.** The Parties agree that the Class Settlement Amount of Two Million Seven Hundred Thousand Dollars (\$2,700,000.00) shall constitute the entire consideration due and is in full and complete satisfaction of any and all Released Claims and Plaintiff's general release. Plaintiff and Class Members agree that they will be entitled to no additional consideration for any Released Claims, separate and apart from the Class Settlement Amount. Plaintiff and Class Members acknowledge that Defendants continue to affirm that Plaintiff and Class Members would not be entitled to receive the Class Settlement Amount if they did not make the promises that they are making in this Settlement Agreement.

32. **Certification for Settlement Purposes.** Solely for the purposes of effectuating this Settlement, and subject to Court approval, the Parties hereby stipulate to the conditional certification of the following Settlement Class:

1 All individuals employed by Defendants STRAUCH & COMPANY,
2 CAMERON PARK PETROLEUM, INC., STRAUCH BROTHER
3 INCORPORATION, STRAUCH MANAGEMENT, LLC, MARK B.
4 STRAUCH and MATTHEW C. STRAUCH (collectively "Defendants") who
performed work for said Defendants in hourly or non-exempt positions in
California on or after November 24, 2016 through February 4, 2022.

5 The Parties agree that if for any reason the Settlement is not preliminarily and finally approved, the
6 conditional certification of the Settlement Class will be of no force or effect, does not constitute an
7 admission by Defendants that class certification is proper, and will not be deemed admissible in this
8 or any other proceeding, and that the Parties will litigate the issue of class certification.

9 33. "Net Settlement Amount" The Net Settlement Amount ("NSA") shall mean the GSA
10 payable by Defendants pursuant to this Settlement, less the following sums set forth in subsections
11 "a" through "e" of this, Paragraph 33:

12 a. **Class Counsel Fees Payment.** Class Counsel will apply to the Court for an
13 award of not more than Nine-Hundred Thousand Dollars and 0/100 Cents (\$900,000.00) (which is
14 one-third of the GSA) as their Class Counsel Fees Payment. Defendants will not oppose a Class
15 Counsel Fees Payment request of not more than \$900,000.00. The Claims Administrator will pay the
16 amount approved by the Court from the GSA. Withholding and deductions will not be taken from the
17 Class Counsel Fees Payment and one or more Forms 1099 will be issued to Class Counsel with respect
18 to that payment.

19 b. **Class Counsel Litigation Expenses Payment.** Class Counsel will apply to
20 the Court for an award of not more than Twenty-Thousand Dollars and No Cents (\$20,000.00) to
21 compensate them for, out of pocket costs and expenses actually incurred in connection with the
22 Action. Defendants will not oppose a Class Counsel Litigation Expenses Payment request of not more
23 than \$20,000.00. The Claims Administrator will pay the amount approved by the Court from the
24 GSA (but not more than \$20,000.00 in Class Counsel Litigation Expenses.) Withholding and
25 deductions will not be taken from the Class Counsel Litigation Expenses Payment and one or more
26 Forms 1099 will be issued to Class Counsel with respect to that payment.

27 c. **Class Representative and General Release Payment.** Plaintiff will apply to
28 the Court for Class Representative Service Award and General Release Payment of not more than

1 Five-Thousand Dollars and No Cents (\$5,000.00) as his Class Representative Payment, made in his
2 capacity as Class Representative to compensate him for initiating the Action, performing work in
3 support of the Action, and undertaking the risk of liability for attorneys' fees and expenses in the
4 event he was unsuccessful in the prosecution of the Action and as consideration for the general release
5 of all claims. Defendant will not oppose this payment of not more than \$5,000.00 total. The Claims
6 Administrator will pay the Class Representative Service Award and General Release Payment
7 approved by the Court from the GSA. Payroll taxes, withholdings, and deductions will not be taken
8 from this payment, and instead a Form 1099 will be issued to Plaintiff with respect to these payments.
9 Plaintiff agrees to assume all responsibility and liability for the payment of taxes due on the Class
10 Representative Payment and General Release Payment.

11 **d. Payment to Claims Administrator.** The Claims Administrator will be paid
12 from the GSA its reasonable fees and expenses as approved by the Court in an amount currently
13 estimated to not exceed Twenty Six Thousand Dollars and No Cents (\$26,000.00).

14 **e. Payment of the PAGA Settlement Amount.** Plaintiff will apply to the Court
15 for approval of a settlement of claims under PAGA in the amount of Two-Hundred Thousand Dollars
16 and No Cents (\$200,000.00) the "PAGA Settlement Amount", of which a payment from the GSA to
17 the LWDA will be made in the amount of One-Hundred Fifty Thousand Dollars and No Cents
18 (\$150,000.00), which is 75% of the PAGA Settlement Amount. Fifty Thousand Dollars and No Cents
19 (\$50,000.00), which is 25% of the PAGA Settlement Amount, will be paid to the PAGA Employees
20 who worked for Defendants in California during the PAGA Period pursuant to the formula set forth
21 in Paragraph 34 below, even if the Employee opts-out of the Settlement. Defendants will not oppose
22 a PAGA settlement in this amount.

23 **34. Allocation of NSA and Calculation of Settlement and PAGA Shares.** Subject to
24 the terms and conditions of this Agreement, the Claims Administrator will calculate a Settlement
25 Share (as defined below) from the NSA for each Class Member plus, if applicable, a PAGA Share (as
26 defined below) for each PAGA Employee. The Settlement Share for each Class Member and the
27 PAGA Share for each PAGA Employee will be calculated as follows, understanding that the formulas
28 below do not constitute an admission by Defendants, and are intended only to provide a practical

1 means to simplify and administer the claims process:

2 **a. Allocation.** All Individual Settlement Payments will be allocated as follows:

3 (i) Thirty Percent (30%) of each Individual Settlement Payment will be allocated as wages for which
4 IRS Forms W-2 will be issued; and (ii) Seventy Percent (70%) will be allocated as non-wages for
5 which IRS Forms 1099-MISC will be issued. Each PAGA Share will be allocated one-hundred
6 percent (100%) to penalties (for which no taxes will be deducted and 1099s will be issued).

7 **b. Administration of Taxes by the Claims Administrator.** The Claims
8 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class
9 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant
10 to this Settlement. The Claims Administrator will also be responsible for forwarding all payroll taxes
11 and penalties to the appropriate government authorities.

12 **c. Settlement Share Calculation.** The Claims Administrator shall assign to each
13 Class Member a "Settlement Ratio," which shall be a fractional number comprised of (i) that Class
14 Member's Individual Work Weeks during the Class Period as the numerator, and (ii) the aggregate
15 total of all Class Members' Individual Work Weeks during the Class Period as the denominator. The
16 Claims Administrator shall assign to each Class Member the "Settlement Share" which shall be
17 calculated by multiplying that Class Member's Settlement Ratio by the amount allocated to the Class
18 Members from the NSA.

19 **d. PAGA Share Calculation.** The Claims Administrator shall assign to each
20 PAGA Employee a "PAGA Settlement Ratio," which shall be a fractional number comprised of (i)
21 that PAGA Employee's Individual Payroll Periods worked during the PAGA Period as the numerator,
22 and (ii) the aggregate total of all PAGA Employees' Individual Payroll Periods worked during the
23 PAGA Period as the denominator. The Claims Administrator shall assign to each PAGA Employee
24 the "PAGA Share" which shall be calculated by multiplying that PAGA Employee's PAGA
25 Settlement Ratio by the amount allocated to the PAGA Employees from the PAGA Settlement
26 Amount after payment to the LWDA.

27 **35. Taxes and Withholdings.** Class Members understand and agree that they are solely
28 responsible for all tax obligations, including all reporting and payment obligations that may arise as

1 a consequence of the payments made and/or agreed to under this Settlement Agreement, save any
2 employer payroll tax obligations. Plaintiff and Class Members agree to indemnify and hold harmless
3 Defendants and any person or entity affiliated with Defendants, from any tax liability or penalties that
4 may arise from payments pursuant to this Settlement Agreement, save employer payroll tax
5 obligations. This indemnification would include but not be limited to taxes, penalties and attorneys'
6 fees and costs associated with any allocation of any payments pursuant to this Settlement Agreement,
7 save employer payroll tax obligations. Plaintiff and Class Members further acknowledge that neither
8 Defendants nor any of their representatives or attorneys has any obligation to and will not indemnify
9 or defend him or her in any tax proceedings or from any tax consequences that could result from
10 payments made in accordance with this Settlement Agreement, save in regard to any employer payroll
11 tax obligations. Further, Plaintiff and Class Members agree that neither Defendants nor any of their
12 representatives or attorneys has made any promise, representation or warranty, express or implied,
13 regarding the tax consequences of any consideration paid pursuant to this Settlement Agreement.
14 Plaintiff and Participating Class Members are not relying on any statement, representation, or
15 calculation by Defendants or by the Settlement Administrator in this regard and acknowledge that
16 they have the right to seek tax advice should they so choose.

17 **36. Circular 230 Disclaimer.** EACH PARTY TO THIS AGREEMENT (FOR
18 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO
19 THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY")
20 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND
21 NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES
22 OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
23 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED
24 OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
25 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
26 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS
27 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
28 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS

1 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
2 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY
3 UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO
4 ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
5 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
6 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF
7 ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
8 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
9 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
10 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
11 AGREEMENT.

12 **37. Number of Class Members and Work Weeks.** As of the approximate date of this
13 Agreement, Corporate Defendants certify that the number of identified Work Weeks worked by Class
14 Members during the Class Period is 51,000 and the total number of Class Members is 2,931, and
15 *Corporate Defendants certify this estimate.* If the total number of workweeks increases by more than
16 twelve percent (12%) of the total workweeks figure (i.e., increases to more than 57,120 workweeks),
17 then at Defendant's sole option, either: (a) the Net Settlement Amount shall be augmented by
18 corporate Defendants in proportion to the amount by which the total workweeks figure increased
19 above 12%; or (b), notwithstanding the definition of "Class Period" in Paragraph 6 the Class Period
20 end date shall be adjusted to be the date on which the total workweeks figure rose to 57,121
21 workweeks.

22 **38. Release of Class Claims by Class Members Including Plaintiff.** Upon the entry of
23 an order by the Court granting final approval of this Settlement, and except as to such rights or claims
24 as may be created by this Agreement, the Settlement Class (including Plaintiff) and each Class
25 Member who has not properly submitted a timely and valid request to "opt-out" or be excluded from
26 the Action, and without the need to manually sign a release document, in exchange for the
27 consideration recited in this Agreement (whether later received or not), on behalf of himself or herself
28 and on behalf of his/her current, former, and future heirs, executors, administrators, attorneys, agents,

1 successors and assigns, shall hereby fully, finally and forever waive, release, relinquish and discharge
2 Defendants individually and each of their past and current parents, subsidiaries, affiliates, trusts, trust
3 funds, investors and related entities or companies, and each of its and their respective owners,
4 partners, members, shareholders, officers, directors, employees, agents, managing agents, attorneys,
5 representatives, fiduciaries, trustees, insurers and other service providers, and their respective
6 predecessors, successors and assigns (collectively hereinafter the "Releasees"), from all claims,
7 rights, demands, liabilities, and causes of action alleged in the operative Complaint which occurred
8 during the Class Period, or which could have been alleged arising from the same set of operative facts
9 alleged in the operative Complaint in the Lawsuit, the Released Claims. These Released Claims are
10 those that accrued during the Class Period and expressly excluding all other claims, including claims
11 for vested benefits, wrongful termination, unemployment insurance, disability, social security,
12 workers' compensation, and class claims outside of the Class Period and PAGA claims outside of the
13 PAGA period. Plaintiff will send a letter to the LWDA to provide notice of this Settlement.

14 **39. Release of PAGA Claims by Plaintiff and the PAGA Employees.** Plaintiff, in his
15 capacity as proxy for the State of California and/or the LWDA, and as a private attorney general
16 acting on behalf of himself and the PAGA Employees, and each of the PAGA Employees, shall be
17 deemed to have, and by operation of the Order of Final Approval of Settlement and Judgment entered
18 by the Court shall have, fully, finally and forever released, relinquished and discharged the Releasees
19 from all claims arising during the PAGA Period seeking civil penalties under the Private Attorneys
20 General Act, California Labor Code section 2698, *et seq.*, that Plaintiff in his capacity as proxy for
21 the State of California and/or the LWDA, to the maximum extent permitted by law, and as a private
22 attorney general acting on behalf of himself and the PAGA Employees, asserted or could reasonably
23 have asserted based on the facts alleged in the Action and/or the LWDA letter, including but not
24 limited to all such claims arising under the California Labor Code (including, but not limited to,
25 sections 201, 202, 203, 204, 221, 222, 223, 226, 226.7, 226.8, 256, 510, 512, 515, 558, 1174, 1194,
26 1194.2, 1197, 1197.1, 1198, 1199, and 2699, *et seq.*, as alleged in the Complaint) and the wage orders
27 of the California Industrial Welfare Commission and any other Labor Code section or Wage Order
28 based the facts alleged in the Action. Collectively, these claims shall be referred to as the "PAGA

1 **Released Claims.** This release shall release all PAGA Released Claims by or on behalf of Plaintiff
2 and all PAGA Employees through the end of the PAGA Period and for the entire PAGA Period
3 regardless of whether Plaintiff and/or a PAGA Employee negotiates their/his/her settlement checks
4 sent pursuant to this Settlement and regardless of whether any such PAGA Employee opts out and
5 excludes himself or herself from the Settlement.

6 **40. Plaintiff's General Release of All Claims.** Solely with respect to the named Plaintiff,
7 and in consideration of this Agreement, Plaintiff, on his own behalf and on behalf of his respective
8 heirs, successors, assigns, does hereby fully, finally and forever waive, release, acquit and forever
9 discharge Defendants and the Releasees from any and all known and unknown claims Plaintiff has or
10 may have against Defendants and the Releasees of every nature or description whatsoever as of the
11 date of this Agreement. This General Release of claims includes, but is not limited to, the Released
12 Claims and the PAGA Released Claims as well as any and all known or unknown claims based on
13 contract, tort, public policy, wrongful termination, intentional infliction of emotional distress, fraud,
14 defamation, invasion of privacy or any other common law claims, and any and all claims based on
15 any federal, state or local law, statute, regulation or ordinance, including, but not limited to, claims
16 arising under, as amended, the Americans With Disabilities Act, the Equal Pay Act, the Employee
17 Retirement Income Security Act, the Worker Adjustment and Retraining Notification Act, Title VII
18 of the Civil Rights Act of 1964, the Civil Rights Acts of 1866, 1871 and 1991, including Section 1981
19 of the Civil Rights Act, the Family and Medical Leave Act, the California Family Rights Act, the
20 California Fair Employment and Housing Act, and any similar federal, state or local law, statute,
21 regulation or ordinance relating to employment, discrimination, harassment, retaliation,
22 whistleblowing, protected leaves of absence, reasonable accommodation and/or any other rights
23 afforded to employees on any other basis protected by law. Further, in line with this General Release
24 Plaintiff agrees that he will not cause or encourage any private lawsuits to be maintained or instituted
25 against Defendants, and he will not assist any individual in the preparation or filing of, or otherwise
26 participate in any manner in, any such private legal proceedings against Defendants, *except where*
27 *required by law.* Finally, in line with this General Release and to ensure all claims are released and
28 not reinstituted, Plaintiff agrees not to visit any of Released Parties' facilities, associated facilities, or

1 job site locations. Plaintiff also agrees not to initiate contact with any owner or member of
2 management of Defendants or any Released Parties, through call, text, email, or other means of
3 communication. Nothing in this Paragraph shall prohibit Plaintiff from contacting Defendants'
4 Human Resources Department solely for any disclosures of information required pursuant to the
5 Labor Code, Plaintiff's dates of employment, positions held and, if authorized in writing by Plaintiff, the
6 Plaintiff's last rate of pay. Notwithstanding this general release of claims, nothing in this Settlement
7 Agreement is intended to operate as, nor shall be construed as, a release or waiver of any rights and/or
8 claims that cannot be released or waived as a matter of law, or of Plaintiff's ability to enforce the
9 Settlement.

10 41. **Plaintiff's Waiver of Unknown Claims.** Plaintiff waives all rights and benefits
11 afforded by Section 1542 of the Civil Code of the State of California, and does so understanding the
12 significance of that waiver, which states:

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

17 42. **Future Claims – No Filing of Any Complaint or Charge.** Plaintiff has filed no other
18 charges, grievances or complaints against, about, or concerning Defendants (including but not limited
19 to class action claims and/or claims subject to the Private Attorney General's Act ("PAGA")) with
20 the Department of Fair Employment and Housing ("DFEH"), the Equal Employment Opportunity
21 Commission ("EEOC"), the California Department of Labor Standards Enforcement ("DLSE"), the
22 United States Department of Labor ("DOL") and/or its Wage and Hour Division ("WHD"),
23 California's Labor and Workforce Development Agency ("LWDA"), California Division of
24 Worker's Compensation ("DWC"), the California Division of Occupational Safety and Health
25 ("Cal/OSHA"), California's Department of Consumer Affairs ("DCA"), or any union, and has filed
26 no lawsuits regarding the same with any court, board, or tribunal. Further, Plaintiff has filed no other
27 lawsuits regarding the same with any court, board, or tribunal other than those listed herein. Further,
28 Plaintiff agrees not to seek to file, institute, cause to be instituted, or join any action in state or federal

1 court, or before any local, state, or federal governmental entity (as permitted by law), including but
2 not limited to the DFEH, the EEOC, the DLSE, the DOL, the WHD, the LWDA, the DWC,
3 Cal/OSHA, the DCA, any union, or any similar federal, state or local entity, that arises out of or
4 relates in any manner whatsoever to the alleged unlawful acts and/or omissions of Defendants (or any
5 of Defendants' affiliates, subsidiaries, parent company, related companies, partners, officers,
6 directors, managers, servants, agents, employees, former employees, representatives, and attorneys,
7 past or present, and all persons acting under, by, through, or in concert with any of them), with respect
8 to the above referenced claims in this Action or any other matter relating to or arising out of Plaintiff's
9 employment with Defendants or the ending of Plaintiff's employment (as these matters are all
10 released herein) including, without limitation, claims based on the Fair Employment and Housing
11 Act, Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990, and the Age
12 Discrimination in Employment Act of 1967, the California Labor Code, the California Government
13 Code, the Fair Labor Standards Act, the California Business and Professions Code, the California
14 Code of Regulations, and/or any collective bargaining agreement. All obligations of Defendants in
15 this Agreement are contingent upon Plaintiff never filing such.

16 43. **No Re-employment.** In consideration of the promises made by Defendants in this
17 Agreement, Plaintiff promises that he will not seek or accept future employment from Defendants or
18 any Released Parties, Plaintiff further agrees that he will not accept assignment with Defendants as
19 an employee, as an independent contractor, subcontractor, per diem, or consultant, or through any
20 contract service, agency, or registry. The Parties agree that Defendants have no obligation to employ
21 or to continue to employ Plaintiff and may refuse to do so without any recourse, should Plaintiff be
22 inadvertently employed. If Plaintiff does seek or obtain such employment after the date of execution
23 of this Settlement Agreement, this Settlement Agreement shall constitute sufficient non-retaliatory
24 and non-discriminatory cause for refusal to hire and/or for the termination of any such employment.

25 44. **Non-Disparagement.** Plaintiff agrees that, apart from court filings, he will not make
26 any statements, either verbal or written, including without limitation any person or entity, including,
27 but not limited to, any current, former or future employee of Defendants; to any member of or
28 contributor to the print, electronic, social or other media; to or on a publicly-available forum; or to

1 any community organizations, that would disparage the reputation, image, good will or commercial
2 interest of Defendants.

3 **45. Waiver and Release by Class Counsel.** As of the date the Judgment becomes Final,
4 and except as otherwise provided by this Agreement, Class Counsel and any counsel associated with
5 Class Counsel hereby waive any claim to costs and attorneys' fees and expenses against Defendants
6 or the Releasees arising from or related to the Action, including but not limited to claims based on
7 the California Labor Code, the California Civil Code, the California Code of Civil Procedure, or any
8 other statute or law (the "Class Counsel Released Claims"). Class Counsel further understands and
9 agrees that the fees, costs and expenses provided in this Agreement are intended to cover all fees,
10 costs and expenses incurred by Class Counsel relating to the Action, including any fees and costs
11 incurred post-judgment relating to the administration of the Settlement and/or relating to any appeal,
12 writ or other proceeding.

13 **46. California Labor Code Sections 206 and 206.5 Do Not Apply.** The Parties agree
14 that this Settlement involves the settlement of highly contested and disputed claims, such that the
15 provisions of California Labor Code sections 206 and 206.5 are not applicable to this Settlement or
16 the Releases required by this Agreement.

17 **47. Motion for Preliminary Approval of Settlement by the Court.** Class Counsel will
18 move the Court for an order granting Preliminary Approval of the Settlement (the "Motion for
19 Preliminary Approval") and conditionally certifying the Class for settlement purposes only,
20 appointing the Claims Administrator, appointing Class Counsel, setting a date for the Final Approval
21 Hearing, and approving the Class Notice. Prior to the hearing on the Motion for Preliminary Approval,
22 Class Counsel will submit an Order to, among other things, Grant Preliminary Approval of
23 Settlement, Approval of Notice to Class and Setting Hearing for Final Approval of Settlement.
24 Counsel for the Parties, with approval from the Court, may change the date of the Final Approval
25 Hearing without any further notice to the Class Members. Should the Court decline to preliminarily
26 approve all material aspects of the Settlement, or order material changes to the Settlement to which
27 the Parties do not agree, either Party shall have the right to terminate the Agreement by providing
28 written notice of termination to the other Party and upon such termination the Settlement will be null

1 and void and the Parties will have no further obligations under it; provided, however, that prior to
2 terminating the Agreement the Parties agree to first meet and confer in good faith to address and
3 attempt to resolve the Court's concerns.

4 **48. Notice of Settlement to the LWDA.** Pursuant to PAGA, at the same time that
5 Plaintiff files the Motion for Preliminary Approval with the Superior Court, Plaintiff will also submit
6 the required notice of PAGA settlement to the LWDA along with a copy of this Agreement, and Class
7 Counsel will take all reasonable steps necessary to timely notify the LWDA of the settlement of the
8 PAGA claims, per the requirements set forth in Labor Code section 2699(l)(2), including the
9 submission of the [Proposed] Final Order Approving Settlement to the LWDA at the time of filing
10 the Motion for Final Approval of the Settlement. The Parties will cooperate fully in requesting the
11 settlement of the PAGA claims and entry of a final judgment by the Court, and Class Counsel will
12 timely notify the LWDA of the final judgment pursuant to Labor Code section 2699(l)(3). It is the
13 intent of the Parties that upon entry of the Final Judgment, all claims for PAGA penalties as alleged
14 in the Action during the PAGA Period shall be deemed settled and resolved, including with respect
15 to any members of the Class who elected to opt-out of the Action.

16 **49. Duties of the Claims Administrator.** The Parties have agreed to the appointment of
17 ILYM Group, Inc. (the "Claims Administrator"), or such other independent administrator as the Court
18 might approve, to provide all reasonable and necessary services to effectuate the Settlement, including
19 to mail the Notice, to independently review and verify documentation associated with any submitted
20 objections, disputes or opt-out requests, to provide weekly reports of such to counsel for the Parties,
21 to compute and pay the appropriate sums from the GSA, and to perform such other duties as are
22 reasonable and customary for a third-party claims administrator. The Claims Administrator's estimate
23 of its costs/fees for the administration of the settlement is \$26,000.00. The actual fees and costs of
24 the Claims Administrator, which will be paid out of the GSA, will not be known until all claims are
25 administered, and will be subject to final Court approval.

26 **50. List of Class Members.** Within twenty (20) days after the Court grants Preliminary
27 Approval of the Settlement, Defendants shall provide to the Claims Administrator:

28 **a.** A confidential and password protected electronic database with the full names

1 of all Class Members, last known mailing address, Social Security number and Defendants' employee
2 identification number ("Class Members' Data").

3 **b.** Corresponding to each Class Member's name, Defendants shall provide a
4 figure indicating the total number of Work Weeks during the Class Period in which that Class Member
5 performed any work for Defendants as an hourly, non-exempt employee and the total number of
6 payroll periods during the PAGA Period that each PAGA Employee received a paycheck. That
7 number of Work Weeks shall be referred to as that Class Member's "Individual Work Weeks" and
8 that number of payroll periods shall be referred to as that PAGA Employee's "Individual Payroll
9 Periods." If any of the Class Members' Data are unavailable to Defendants, Defendants will so inform
10 Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the
11 Class Members' Data prior to when it must be submitted to the Claims Administrator. Class
12 Members' Data will otherwise remain strictly confidential and will not be disclosed to anyone, except
13 as necessary to applicable taxing authorities, or pursuant to Defendants' express written authorization
14 or by order of the Court.

15 **51. Notice to Class Members.** Upon receipt of the Names and addresses, the
16 Administrator will run the same through the NCOA database to obtain current address information.
17 The Claims Administrator will prepare for each Class Member to be sent by first-class mail a Notice
18 Packet. Each Notice Packet will provide: (i) information regarding the nature of the Action; (ii) a
19 summary of the Settlement's principal terms; (iii) the Settlement Class definition; (iv) the total
20 number of Pay Periods each respective Class Member worked for Defendants during the Class Period;
21 (v) each Class Member's estimated Individual Settlement Payment and the formula for calculating
22 Individual Settlement Payments; (vi) the dates which comprise the Class Period; (vii) instructions on
23 how to submit Requests for Exclusion or Notices of Objection; (viii) the deadlines by which the Class
24 Member must postmark or fax Request for Exclusions, or postmark Notices of Objection to the
25 Settlement; and (ix) the claims to be released. The "Notice" in the form is attached hereto as **Exhibit**
26 **"1"** and approved by the Court. The Notice will be prepared in English and Spanish.

27 **a. Mailing of Class Notice.** Within twenty (20) business days after receiving the
28 Class Members' Data, or as soon thereafter as it can do so after approval of the Notice by counsel for

1 the Parties, the Claims Administrator will mail the Class Notice to all identified Class Members via
2 first-class U.S. mail using the mailing address information provided by Defendants, unless modified
3 by any updated address information that the Claims Administrator obtains in the course of
4 administration of the Settlement.

5 **b. Confirmation of Contact Information in the Class Lists.** Prior to mailing,
6 the Claims Administrator will perform a search based on the National Change of Address Database
7 for information to update and correct for any known or identifiable address changes. Any Notice
8 Packets returned to the Claims Administrator as non-deliverable on or before the Response Deadline
9 will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and
10 the Claims Administrator will indicate the date of such re-mailing on the Notice Packet. If no
11 forwarding address is provided, the Claims Administrator will promptly attempt to determine the
12 correct address using a skip-trace, or other search using the name, address and/or Social Security
13 number of the Class Member involved, and will then perform a single re-mailing. Those Class
14 Members who receive a re-mailed Notice Packet, whether by skip-trace or by request, will have either
15 (i) an additional fifteen (15) calendar days or (ii) until the Response Deadline, whichever is later, to
16 submit a Request for Exclusion or an objection to the Settlement..

17 **52. Request for Exclusion from Settlement.** Other than with respect to the PAGA
18 related claims, a Class Member may request to be excluded from the effect of this Agreement,
19 including the Released Claims and the payment of the individual Settlement Share under this
20 Agreement, by timely mailing a letter to the Claims Administrator stating that the Class Member
21 wants to be excluded from this Action. This opt-out letter must include the Class Member's name,
22 address, telephone number, and signature. To be valid and timely, the request to be excluded must
23 be postmarked by no later than the date specified in the Class Notice, which shall be sixty (60) days
24 from the initial mailing of the Class Notice by the Claims Administrator. A Class Member who
25 properly submits a valid and timely request to be excluded from the Action shall not receive any
26 payment of his or her individual Settlement Share in connection with this Agreement or this Action
27 except for his or her individual PAGA Share from the PAGA Settlement Amount, if applicable, and
28 shall not be bound by or receive any benefit of this Agreement, other than the effect of the PAGA

Released Claims. Such excluded Class Member also shall have no standing to object to the Settlement. A request for exclusion must be mailed to the Claims Administrator as follows (who shall transmit the request for exclusion to counsel for the Parties) as follows:

To Claims Administrator	To Class Counsel:	To Defense Counsel:
Beckom v. Strauch & Co., et al. Claims Administrator c/o [Claims Administrator] [Address] [City, State Zip]	Shaun Setareh, Esq. David Keledjian, Esq. Setareh Law Group 9665 Wilshire Blvd., Ste. 430 Beverly Hills, CA 90212	Alicia R. Kennon Kristin A. Smith WOOD, SMITH, HENNING & BERMAN LLP 1401 Willow Pass Road, Suite 700 Concord, California 94520-7982

53. **Objections to Settlement.** The Class Notice will provide that any Class Member who does not request exclusion from the Action and who wishes to object to the Settlement may submit an objection to the Settlement in writing to the Claims Administrator (a "Written Objection") which sets forth the grounds for the objection and the other information required by this Paragraph and elsewhere in this Agreement. The Written Objection must be faxed or mailed (postmarked) to the Claims Administrator on or before the end of the 60-day Notice Period. The Claims Administrator shall promptly transmit all Written Objections to counsel for the Parties. However, any Class Member who opts-out of the Settlement shall not be permitted to object and any such objections shall not be considered by the Court.

54. **Objection Procedures.** The Written Objection must state the objecting Class Member's full name, address and telephone number, the written basis for each specific objection in clear and concise terms and any legal support for the objection and must be signed by the Class Member or by a legal representative of the Class Member. If Written Objections have been submitted by the deadline, it is not necessary for the Class Member or counsel to appear at the Final Approval hearing in order for the Court to consider the Written Objection. However, even if a Class Member does not timely submit a Written Objection, he/she or his/her counsel may still appear at the Final Approval Hearing at his/her own expense to orally present any objections. Any Class Member who does not submit a Written Objection in the manner and by the deadline specified above, and who fails to appear at the Final Approval Hearing to orally present an objection for the first time, will be deemed

1 to have waived any objections and will be foreclosed from making any objections after the Final
2 Approval Hearing, whether by appeal, writ or other proceeding. If the objecting Class Member does
3 not formally intervene in the action and/or the Court rejects the Class Member's objection, the Class
4 Member will still be bound by the terms of this Agreement.

5 **55. Disputed Class Member Settlement Shares.** If a Class Member disputes the number
6 of Work Weeks or Payroll Periods used to determine his/her Settlement Share, the Class Member
7 may produce evidence to the Claims Administrator for the Class Period stating the basis of his or her
8 disagreement and submitting supporting documentation. In order for the dispute to be considered,
9 he/she must follow the directions on the Class Notice. To be valid and timely, all disputes and
10 supporting documents must be postmarked by no later than the date specified in the Class Notice,
11 which shall be sixty (60) days from the initial mailing of the Class Notice by the Claims
12 Administrator. Defendants' employment records will be presumed to be correct unless proven
13 otherwise by the Class Member. The Claims Administrator will notify the Parties of any disputes,
14 and if the Parties cannot mutually agree, the Claims Administrator will make a determination of the
15 number of Work Weeks and/or Payroll Periods to be attributed to the Class Member and shall notify
16 the Class Member and the Parties of its decision. The decision of the Claims Administrator shall be
17 final, binding and non-appealable.

18 **56. Settlement Terms Bind All Class Members Who Do Not Opt-Out.** Any Class
19 Member who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and
20 valid Request for Exclusion will be bound by all of its terms, including those pertaining to the
21 Released Claims, as well as any Judgment that may be entered by the Court if it grants final approval
22 to the Settlement.

23 **57. Report.** On a weekly basis during the 60-day Notice Period, the Claims Administrator
24 will provide the Parties with a complete and accurate list of all Class Members who sent timely
25 requests to be excluded from the Action and all Class Members who objected to the settlement or
26 disputed their settlement allocation. No later than seven (7) days after the deadline for submission of
27 the requests for exclusion, objections and disputes, the Claims Administrator will provide the Parties
28 with a final report of all such information.

1 **58. Declaration of Claims Administrator.** Not later than sixteen (16) court days prior
2 to the Final Approval Hearing, the Claims Administrator will provide the Parties for filing with the
3 Court a declaration of due diligence setting forth its compliance with its obligations under this
4 Agreement. Prior to the Final Approval Hearing, the Claims Administrator will supplement its
5 declaration of due diligence if any material changes occur from the date of the filing of its prior
6 declaration.

7 **59. No Solicitation of Objection; Right to Void.** Neither the Parties, nor their respective
8 counsel, will directly or indirectly solicit or otherwise encourage any Class Member to seek exclusion
9 from the Settlement, object to the Settlement, or to appeal from the Judgment. If five percent (5%)
10 or more of the Class Members submit a valid request to be excluded from the Settlement, then
11 Defendants shall have the unilateral right to void this Settlement. Defendants may do so by giving
12 notice to Class Counsel and the Court of its election to void the Settlement not later than seven (7)
13 days before the Final Approval Hearing. No sums shall be payable by Defendants if this Agreement
14 is voided as provided for herein with one exception: Defendants agree to pay any fees owing to the
15 Claims Administrator for services rendered in the event Defendants exercise their right to void the
16 Settlement.

17 **60. Additional Briefing and Final Approval.** Plaintiff will timely file with the Court a
18 motion for final approval of the Settlement, including the PAGA settlement, and payment of the
19 Claims Administrator's reasonable fees and expenses, with a memorandum in support of their motion;
20 and Plaintiff and Class Counsel will serve on Defendants and file with the Court a motion for awards
21 of the Class Representative Payment, the Class Counsel Fees Payment, and the Class Counsel
22 Litigation Expenses Payment pursuant to this Settlement, and memoranda in support of their motions.

23 **61. Right to Respond to Objections.** Before the Final Approval Hearing, the Parties
24 shall be entitled to file and serve a response to any Class Member's objection to the Settlement and/or
25 reply in support of their motion for final approval of the Settlement, and payment of the Claims
26 Administrator's reasonable fees and expenses to the extent that any opposition to the motion is filed;
27 and Plaintiff and Class Counsel may file replies in support of their motions for the Class
28 Representative Payment, the Class Counsel Fees Payment, and the Class Counsel Litigation Expenses

1 Payment.

2 **62. Right to Void Settlement Agreement.** If the Court ultimately does not grant final
3 approval of the Settlement or grants final approval conditioned on any material change to the
4 Settlement that is not agreed to by the Parties, then either Party will have the unilateral right to void
5 the Settlement in its entirety by providing written notice of such termination to the other Party and to
6 the Court within ten (10) days of the Court's ruling on the Settlement; provided, however, that prior
7 to terminating the Agreement the Parties agree to first meet and confer in good faith to address and
8 attempt to resolve the Court's concerns. Upon written notice of any such termination by either Party,
9 the Settlement will be null and void and the Parties will have no further obligations under the
10 Settlement, including any obligation by Defendants to pay the GSA, NSA or any amounts that
11 otherwise would have been payable under this Agreement, except that the Party voiding the
12 Settlement will be responsible to pay the Claims Administrator's reasonable fees and expenses
13 incurred as of the date that the Party exercises the right to void the Settlement under this Paragraph.
14 However, an award by the Court of a lesser amount than that sought by Plaintiff and Class Counsel
15 for the Class Representative Payment, the Class Counsel Fees Payment, or the Class Counsel
16 Litigation Expenses Payment, will not constitute a material modification to the Settlement within the
17 meaning of this Paragraph and shall not render the Settlement voidable.

18 **63. Final Approval Hearing.** Upon expiration of the deadlines to postmark Requests for
19 Exclusion or objections to the Settlement Agreement, and with the Court's permission, a final fairness hearing
20 will be conducted to determine the Final Approval of the Settlement Agreement along with the amounts
21 properly payable for: (i) Attorneys' Fees, Costs and Expenses; (ii) the Class Representative Service Award
22 and General Release Payment; (iii) Individual Settlement Payments; (iv) the LWDA Payment; (v) all
23 Settlement Administration Costs. The final fairness hearing will not be held earlier than thirty (30) calendar
24 days after the Response Deadline. Class Counsel will be responsible for drafting all documents necessary to
25 obtain final approval. Class Counsel will also be responsible for drafting the attorneys' fees and costs
26 application to be heard at the final approval hearing.

27 **64. Final Judgment.** Upon final approval of the Settlement by the Court at or after the
28 Final Approval Hearing, the Parties will present for the Court's approval a [Proposed] Final Order

1 and Judgment approving the Settlement pursuant to California Rules of Court, Rule 3.769(a) and a
2 Judgment pursuant to California Rules of Court, Rule 3.769(h) for entry by the Court, consistent with
3 the terms of the Settlement as approved by the Court. The Final Order and Judgment shall also
4 permanently enjoin and forever bar all Class Members (other than those who have submitted timely
5 and valid requests to be excluded from the Action as provided in this Agreement) from prosecuting
6 against Defendants and the Releasees any claims within the scope of the Releases contained in this
7 Agreement.

8 **65. Continuing Jurisdiction.** After entry of the Judgment, the Court will have continuing
9 jurisdiction over the Action and the Settlement solely for purposes of (a) enforcing this Agreement,
10 (b) addressing settlement administration matters, and (c) addressing such post-Judgment matters as
11 may be appropriate under court rules or applicable law. It is the intent of the Parties that the Judgment
12 entered by the Court upon final approval of the Settlement shall have *res judicata* effect and shall be
13 final and binding upon Plaintiff and all Class Members regarding all of the Class Members' Released
14 Claims and PAGA Released Claims.

15 **66. Waiver of Right to Appeal.** Plaintiff, Class Counsel, Class Members who did not
16 timely submit an objection to the Settlement, Defendants, and Defense Counsel, hereby waive, except
17 as provided for in this Agreement or prohibited by law, any and all rights to appeal from the Judgment,
18 including with respect to the amount of the Class Representative Payment or the Class Counsel Fees
19 Payment and/or Class Counsel Litigation Expenses Payment, and including all rights to any post-
20 judgment proceeding and appellate proceeding, such as a motion to vacate judgment, any
21 extraordinary writ, and any appeal. The waiver of appeal does not include any waiver of the right to
22 oppose any appeal, appellate proceedings or post-judgment proceedings. If an appeal is taken from
23 the Judgment, the time for consummation of the Settlement (including making any payments under
24 the Settlement) will be suspended until the appeal is fully and finally resolved and the Judgment,
25 consistent with the terms of this Agreement, becomes Final.

26 **67. Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.**
27 If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion,
28 petition, writ, application, or appeal, the reviewing court vacates, reverses, or modifies the Judgment

1 such that there is a material modification to the Settlement, and that court's decision is not completely
2 reversed and the Judgment is not fully affirmed on review by a higher court, then either Plaintiff or
3 Defendants will have the unilateral right to void the Settlement, which the Party must do by giving
4 written notice to the other Parties, the reviewing court, and the Court, not later than fourteen (14) days
5 after the reviewing court's decision vacating, reversing, or materially modifying the Judgment
6 becomes final; provided, however, that prior to terminating the Agreement the Parties agree to first
7 meet and confer in good faith to address and attempt to resolve the Court's concerns. The Party
8 exercising its right to unilaterally void the Settlement pursuant to this provision agrees to pay any fees
9 owing to the Claims Administrator for services rendered. An order vacating, reversing or modifying
10 the Court's award of the Class Representative Payment or the Class Counsel Fees Payment and/or
11 Class Counsel Litigation Expenses Payment will not constitute a vacation, reversal, or material
12 modification of the Judgment within the meaning of this Paragraph, and shall not render the
13 Settlement voidable.

14 **68. Establishment of Settlement Account.** The Claims Administrator will establish an
15 account (the "Settlement Account") for the purpose of administering the funds described in this
16 Stipulation of Settlement. Within thirty (30) calendar days of the "Effective Date" of the Settlement
17 as defined in Paragraph 10 above, Defendants shall pay into the Settlement Account (via wire transfer)
18 the Gross Settlement Amount as defined in Paragraph 12 above.

19 **69. Qualified Settlement Fund.** The Settlement Account established by the Claims
20 Administrator shall be a "Qualified Settlement Fund" within the meaning of Section 468B of the
21 Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, et seq., and shall be
22 administered by the Claims Administrator pursuant to the final terms of the Settlement as approved
23 by the Court. The Claims Administrator shall request and obtain from the IRS an appropriate Tax ID
24 for the Settlement Account. The Claims Administrator shall serve as a Trustee of the Settlement
25 Account and shall act as a fiduciary with respect to the handling, management and distribution of the
26 Settlement Account, including the handling of all tax-related issues, reporting and payments. The
27 Claims Administrator shall act in a manner necessary to qualify and maintain the Settlement Account
28 as a "Qualified Settlement Fund" and the Parties shall cooperate to ensure such treatment and shall

1 not take a position in any filing or before any tax authority inconsistent with such treatment.

2 70. **Minimum Settlement Payment Amounts.** In the event that an individual Class
3 Member's Settlement Share as calculated based on the total number of Work Weeks is less than Five
4 Dollars (\$5.00), the Class Member shall receive a Settlement Share equal to Five Dollars (\$5.00) and
5 the other Settlement Shares shall be adjusted accordingly on a *pro rata* basis. In the event that an
6 individual PAGA Employee's PAGA Share as calculated based on the total number of Payroll Periods
7 is less than Five Dollars (\$5.00), the PAGA Employee shall receive a PAGA Share equal to Five
8 Dollars (\$5.00) and the other PAGA Shares shall be adjusted accordingly on a *pro rata* basis.

9 71. **Payment of Settlement Shares.** Within ten (10) calendar days after receipt of the
10 Gross Settlement Amount from Defendants, the Claims Administrator will issue payments to each of
11 the following, in accordance with this Agreement: (a) Plaintiff, the Class Representative Service
12 Award and General Release Payment; (b) Class Counsel, the Class Counsel Fees Payment and
13 Expenses Payment; (c) the LWDA, the LWDA Payment; and (d) the Claims Administrator, its
14 reasonable fees and expenses as approved by the Court. The Claims Administrator shall then calculate
15 and pay the Individual Settlement Payments, to all Class Members as defined in Paragraph 4 and shall
16 pay the PAGA Shares, to all PAGA Employees as defined in Paragraph 21. The Claims Administrator
17 shall provide such calculations in writing to Class Counsel (names and personal information redacted)
18 and Defense Counsel not later than ten (10) business days after receipt of the GSA for final approval
19 by counsel. The Claims Administrator shall pay each Settlement Share and PAGA Share by sending
20 a check in the appropriate amount to the Class Member at the address indicated in the list of Class
21 Member names and addresses provided by Defendants, or as subsequently determined by the Claims
22 Administrator to be the correct address. Such payment shall be sent by the Claims Administrator via
23 U.S. Mail within fifteen (15) business days of its receipt from Defendants of the Gross Settlement
24 Amount.

25 72. **Uncashed Settlement Share Checks.** Any checks issued to the Class Members shall
26 remain valid and negotiable for one hundred eighty (180) days from date of their issuance. If any
27 Class Member does not cash his or her settlement check within 180 days, such uncashed check shall
28 be voided, and the unclaimed funds therefrom shall be tendered to the State Controller's Office,

1 Unclaimed Property Division, unless by Court order, they revert to Defendants. During the 180-day
2 check-cashing period, the Claims Administrator shall provide bi-weekly reports to Class Counsel and
3 Defendants' Counsel regarding the number of checks cashed and the total value of Settlement
4 Payment remaining uncashed. Within forty-five (45) calendar days of the Effective Date, the Claims
5 Administrator shall pay the Court-approved Class Counsel Payment to Class Counsel's trust account.
6 Class Counsel shall provide to the Claims Administrator, with a copy to Defendants, the pertinent
7 taxpayer identification number and IRS Form W-9 within fourteen (14) days after the Effective Date.
8 Within forty-five (45) calendar days of the Effective Date, the Claims Administrator shall send a
9 check by mail for the Court-approved Service Payment to the Class Representative, care of Class
10 Counsel. Within two hundred and ten (210) days of issuance of the settlement checks, the Class
11 Administrator shall provide to Class Counsel and Defendants' Counsel a report as to the amount of
12 funds remaining in the Settlement Fund.

13 **73. Final Report by Claims Administrator to Court.** Within ten (10) days after final
14 disbursement of all funds from the Settlement Account, the Claims Administrator will serve on the
15 Parties for filing with the Court a declaration providing a final summary report on the disbursements
16 of all funds from the Settlement Account.

17 **74. Non-Publicity Provision.** The Parties and their counsel agree that they will not issue
18 any press releases, initiate any contact with the press, hold any press conference, respond to any press
19 inquiry, or have any communication with the press about the fact, amount or terms of the Settlement.
20 If the Parties are contacted by the press or other third party regarding the Settlement, the Parties shall
21 be limited in their response to informing the initiating contactor that the Parties have mutually agreed
22 to a settlement and the initiating contactor should refer to the public records filed with the Court for
23 more information. In addition, the Parties and their counsel agree that they will not engage in any
24 advertising or distribute any marketing materials relating to the Settlement of this case in any manner
25 that identifies the Defendants, including but not limited to any postings on any websites maintained
26 by Class Counsel or any other websites, internet blogs, chatrooms or social media sites. Neither
27 Plaintiff nor Class Counsel will discuss the terms or the fact of the Settlement with third parties other
28 than (1) their immediate family members, (2) their respective accountants or lawyers as necessary for

1 tax purposes; or (3) other Class Members, but such communications to Class Members must be
2 consistent with the Court-approved Class Notice being mailed by the Claims Administrator. Plaintiff
3 and Class Counsel agree not to publish any of the terms or conditions of this Settlement in any manner
4 that identifies Defendants. However, Class Counsel may identify this Settlement in other matters to
5 demonstrate their adequacy as counsel in such other matters, and Defendants may inform their
6 employees that Defendants encourages all Class Members to participate in the Settlement and that
7 opting-out will not save the Defendants any money. However, nothing herein shall prohibit
8 Defendants or their counsel from making any necessary disclosures to any government regulators, or
9 its auditors, insurers, accountants or financial institutions for legitimate business reasons, or to any
10 putative class member asserting any similar claim and/or to such counsel to notify them of this
11 Settlement. This provision also does not limit or restrict the ability of Class Counsel to file this
12 Agreement with the Court or the LWDA in connection with the settlement approval process.

13 **75. Plaintiff's Comments Restricted.** Plaintiff agrees that to the extent that he receives
14 inquiries about this Action and/or any claims released herein from the press or third parties who are
15 not Class Members, he is authorized to say nothing other than "it has been resolved" or similar words
16 to that effect without disclosing any information relating to the terms and conditions of this Settlement
17 Agreement, the process leading to reaching this Settlement Agreement, or anything else related to or
18 regarding Plaintiff's issue with his employment with Defendants or settlement of this Action. Nothing
19 in this Paragraph should be construed to interfere in any way with Plaintiff's ability to discharge his
20 obligations to Settlement Class as its Class Representative.

21 **76. No Effect on Other Benefits.** The Settlement Shares will not result in any additional
22 employee benefit payments (such as pension, ERISA, 401(k), vacation or bonus) and shall not have
23 any effect on the eligibility for, or calculation of, any past or future employee benefits, vesting, credits,
24 or hours of service, including but not limited to with respect to any employee pension, 401(k), health
25 and welfare, profit-sharing, stock option, vacation, PTO, paid sick, bonus or other benefit plan or
26 program of any kind. Plaintiff and Class Members are deemed to have waived all such claims,
27 whether known or unknown by them, as part of their release of claims under this Agreement.

28 **77. No Admission of Liability.** Defendants deny that they engaged in any unlawful

1 activity, failed to comply with the law in any respect, or have any liability to anyone under the claims
2 asserted in the Action. This Agreement is entered into solely for the purpose of compromising highly
3 disputed claims. Nothing in this Agreement is intended or will be construed as an admission of
4 liability or wrongdoing by Defendants, or an admission by Plaintiff that any of his claims was non-
5 meritorious or any defense asserted by Defendants was meritorious. This Settlement and the fact that
6 Plaintiff and Defendants were willing to settle the Action will have no bearing on, and will not be
7 admissible in connection with, any litigation (other than solely in connection with the Settlement).

8 **78. No Admission of Class Certification.** Defendants have agreed not to contest the
9 certification of the Class for the sole purpose of effectuating this Settlement. Should the Settlement
10 be voided by any Party pursuant to this Agreement, or not approved by the Court, or should the
11 Judgment not become Final, the certification of the Class for settlement purposes will be deemed null
12 and void; and the fact that Defendants were willing not to contest class certification as part of the
13 Settlement will have no bearing on, and will not be admissible in connection with, the issue of whether
14 the Class should be certified in a non-settlement context in the Action or any other action.

15 **79. Improper Use of Settlement.** Whether or not the Settlement becomes final, this
16 Stipulation of Settlement, and all documents filed with the Court pursuant to this Agreement, are
17 settlement documents and shall, pursuant to California Evidence Code section 1152 and Federal Rule
18 of Evidence 408(a), be inadmissible in evidence for any purpose in this Action or in any other civil,
19 criminal or administrative action or proceeding of any kind. The preceding sentence shall not apply
20 to an action or proceeding to approve, interpret, or enforce this Stipulation of Settlement.

21 **80. Integrated Agreement.** After this Agreement is signed and delivered by all Parties
22 and their counsel, this Agreement and its exhibits will constitute the entire agreement between the
23 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,
24 covenants, or inducements have been made to any Party concerning this Agreement or its exhibits
25 other than the representations, warranties, covenants, and inducements expressly stated in this
26 Agreement and its exhibits. The Parties expressly recognize California Civil Code Section 1625 and
27 California Code of Civil Procedure Section 1856(a), which provide that a written agreement is to be
28 construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the

1 Parties agree that no such extrinsic oral or written representations or terms will modify, vary or
2 contradict the terms of this Settlement Agreement. The Parties agree that the provisions of this
3 Settlement Agreement are contractual and not mere recitals.

4 81. **Modification.** This Stipulation of Settlement may not be changed, altered, or
5 modified, except in a writing signed by the Parties hereto and approved by the Court. This Stipulation
6 of Settlement may not be discharged except by performance in accordance with its terms or by a
7 writing signed by all of the Parties hereto.

8 82. **Authorization to Enter Into Settlement Agreement.** Counsel for all Parties warrant and
9 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
10 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this
11 Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the
12 terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their
13 best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the
14 form or content of any document needed to implement the Settlement, or on any supplemental provisions that
15 may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the
16 Court to resolve such disagreement.

17 83. **Attorney Authorization.** Class Counsel and Defense Counsel warrant and represent
18 that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action
19 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms,
20 and to execute any other documents required to effectuate the terms of this Agreement. The Parties
21 and their counsel will cooperate with each other and use their best efforts to effect the implementation
22 of the Settlement. In the event the Parties are unable to reach agreement on the form or content of
23 any document needed to implement the Agreement, or on any supplemental provisions that may
24 become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the
25 Court, and in all cases, all such documents, supplemental provisions and assistance of the court will
26 be consistent with this Agreement.

27 84. **No Tax Advice.** The Parties and their counsel make no representations as to the tax
28 treatment or legal effect of the payments specified herein, and Class Members are not relying on any

1 statement or representation by the Parties, Class Counsel, or Defense Counsel in this regard. Plaintiff,
2 Class Members and Class Counsel understand and agree that they shall be solely responsible for the
3 payment of all applicable taxes and any penalties and interest assessed on the payments specified
4 herein, other than those amounts to be withheld and paid by the Claims Administrator, and shall hold,
5 as applicable, the Parties, Class Counsel, and/or Defense Counsel free and harmless from and against
6 any claims resulting from the tax treatment of such payments in this Agreement, including the
7 treatment of such payments as not being subject to withholding or deduction for payroll and
8 employment taxes.

9 **88. Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the
10 benefit of, the successors and assigns of each of the Parties. Accordingly, the Parties warrant that they
11 understand and have full authority to enter into this Settlement Agreement. The Parties agree that this
12 Agreement will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding
13 any mediation confidentiality provisions that otherwise might apply under federal or state law.

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

19 **86. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be
20 governed by and interpreted according to the laws of the State of California, without giving effect to
21 any conflict of law principles or choice of law principles.

22 **87. Cooperation in Drafting and Administration.** The Parties have cooperated in the
23 drafting and preparation of this Agreement. This Agreement will not be construed against any Party
24 on the basis that the Party was the drafter or participated in the drafting. The Parties agree to cooperate
25 in the administration of the settlement and to make all reasonable efforts to control and minimize the
26 costs and expenses incurred in administration of the Settlement.

27 **88. Fair and Reasonable Settlement.** The Parties and their respective counsel believe
28 and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and

1 have arrived at this Agreement through arms-length negotiations, with the assistance of an
2 experienced mediator, after considering all relevant factors, current and potential.

3 **89. Headings.** The descriptive heading of any section or Paragraph of this Agreement is
4 inserted for convenience of reference only and does not constitute a part of this Agreement.

5 **90. Exhibits Incorporated by Reference.** The terms of this Settlement Agreement
6 include the terms set forth in any attached Exhibits, which are incorporated by this reference as though
7 fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

8 **91. Invalidity of Any Provision.** Before declaring any provision of this Settlement
9 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
10 possible consistent with applicable precedents so as to define all provisions of this Settlement
11 Agreement valid and enforceable. Further, the language of all parts in this Settlement Agreement
12 shall be construed as a whole, according to its fair meaning. Should any provision in this Settlement
13 Agreement be declared or determined to be illegal, invalid or unenforceable, the Settlement
14 Agreement shall be considered as if the invalid/unenforceable provisions did not exist and the
15 remaining parts, terms, or provisions shall be valid and unaffected by the illegal or invalid
16 provision, in accordance with the Court's approval of this Settlement Agreement as detailed herein.
17 In the event any provision of this Settlement Agreement is held to be illegal or unenforceable, the
18 Parties will fully cooperate to effectuate its purpose to conform the provision(s) to law and
19 incorporate them into the valid Settlement Agreement.

20 **92. Notice.** All notices, demands or other communications given under this Agreement
21 will be in writing and deemed to have been duly given as of the third business day after mailing by
22 United States mail, addressed as follows:

23 To Class Counsel:

24 Shaun Setareh, Esq.
25 David Keledjian, Esq.
26 Setareh Law Group
27 9665 Wilshire Blvd., Ste. 430
28 Beverly Hills, CA 90212

23 To Defense Counsel:

24 Alicia R. Kennon
25 Kristin A. Smith
26 WOOD, SMITH, HENNING & BERMAN
27 LLP
28 1401 Willow Pass Road, Suite 700
 Concord, California 94520-7982

23 **93. Execution in Counterpart.** This Agreement may be executed in one or more
28

1 counterparts. All executed counterparts and each of them will be deemed to be one and the same
2 instrument provided that counsel for the Parties will exchange between themselves original signed
3 counterparts. Facsimile, PDF and electronic signatures will be presumptive evidence of execution of
4 the original, which shall be produced on reasonable request. Any executed counterpart will be
5 admissible to prove the existence and contents of this Agreement.

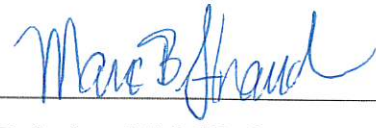
6 **94. No Assignments.** The Parties hereto represent, covenant, and warrant that they have
7 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
8 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action,
9 or rights herein released and discharged. Further, Plaintiff, agrees to indemnify and hold harmless
10 Defendants and all other Releasees, and each of them, against any loss or liability whatsoever,
11 including reasonable attorneys' fees and costs caused by: (i) any breach of this Settlement Agreement
12 by Plaintiff or his successors in interest; or (ii) any action or proceeding brought by Plaintiff, or his
13 successors in interest, if such action or proceeding is based upon or related to any of the Claims
14 released in this Settlement Agreement. Additionally, Class Members agree as to themselves
15 individually and to their own successors in interest, to indemnify and hold harmless Defendants and
16 all other Releasees, and each of them, against any loss or liability whatsoever, including reasonable
17 attorneys' fees and costs caused by: (i) any breach of this Settlement Agreement by that Class Member
18 or his or her successors in interest; or (ii) any action or proceeding brought by that Class Member or
19 his or her successors in interest, if such action or proceeding is based upon or related to any of the
20 Claims released in this Settlement Agreement.

21 **95. Class Counsel Signatories.** It is agreed that, because the members of the Settlement
22 Class are so numerous, it is impossible or impractical to have each such Class Member execute this
23 Stipulation of Settlement. The Notice will advise all Class Members of the binding nature of the
24 release, and such shall have the same force and effect as if this Stipulation of Settlement were executed
25 by each Member of the Settlement Class.

26 **96. All Terms Subject to Final Court Approval.** All amounts and procedures described
27 in this Settlement Agreement herein will be subject to final Court approval.
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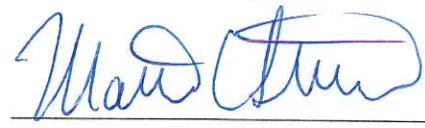
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DATED: 11/7/2022



Defendant, MARC B. STRAUCH (erroneously
sued as Mark Strauch)

DATED: 11/7/2022



Defendant, MATTHEW C. STRAUCH

DATED: 11/7/2022



Defendant, LINDA PETROLEUM, INC.

DATED: 11/7/2022



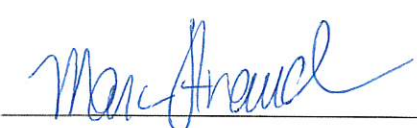
Defendant, M & M FUELS, INC.

DATED: 11/7/2022



Defendant, RANCHO CONVENIENCE
CENTER, INC.

DATED: 11/7/2022



Defendant, WOODCREEK OAKS
PETROLEUM, INC.

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DATED: 11/2/2022

Rene Beckom

ID n4dodwK7JH5pDBEX3sX63bK4

Plaintiff, RENE BECKOM

DATED:

11/7/2022

Marc Strach

Defendant, STRAUCH & COMPANY.

By:

Marc Strach

DATED:

11/7/2022

Marc Strach

Defendant, CAMERON PARK PETROLEUM, INC.

By:

Marc Strach

DATED:

11/7/2022

Marc Strach

Defendant, STRAUCH BROTHER INCORPORATION(also sued erroneously as STRAUCH BROTHERS, INC. and STRAUCH BROTHERS INCORPORATING),

By:

Marc Strach

DATED:

11/7/2022

Marc Strach

Defendant, STRAUCH MANAGEMENT, LLC

By:

Marc Strach

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APPROVED AS TO FORM AND CONTENT

SETAREH LAW GROUP

DATED: 11-2-22

 11/2

Shaun Setareh
David Keledjian
Counsel for Plaintiff

WOOD, SMITH, HENNING & BERMAN
LLP

DATED: 11/8/22



Alicia R. Kennon
Kristin A. Smith
Counsel for Defendants

eSignature Details

Signer ID:	n4dodwK7JH5pDBEX3sX63bK4
Signed by:	Rene Beckom
Sent to email:	rbeck0m@att.net
IP Address:	172.58.39.252
Signed at:	Nov 2 2022, 3:14 pm PDT

EXHIBIT 1

Rene Beckom v. Strauch & Co., et. al., No. 34-2020-00289457
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SACRAMENTO
NOTICE OF CLASS ACTION SETTLEMENT

This is not a lawsuit against you. You are not being sued. This notice affects your rights. Please read it carefully

To: All persons who worked for Defendants Strauch & Company, Cameron Park Petroleum, Inc., Strauch Brother Incorporation (also sued erroneously as Strauch Brothers, Inc. and Strauch Brothers Incorporating), Strauch Management LLC, Linda Petroleum, Inc., M&M Fuels, Inc., Rancho Convenience Center, Inc., Woodcreek Oaks Petroleum, Inc., Marc B. Strauch (erroneously sued as Mark Strauch) and Matthew C. Strauch (“Defendants”) as a non-exempt, hourly employees in the State of California at any time from November 24, 2016 through February 4, 2022 (“Class Members”).

On _____, the Honorable Steve White of the Sacramento County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendants’ records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your proportionate share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at ____:00 ____m. on _____, 2023 in Courtroom 40 of the Sacramento County Superior Court located at 720 – 9th Street, Sacramento, California 95814. You are not required to attend the hearing, but you are welcome to do so.

SUMMARY OF THE LITIGATION

Plaintiff Rene Beckom brought a lawsuit on behalf of himself and other current and former non-exempt employees, claiming that Defendants alleged violated California state labor laws. To wit, he claims that Defendants allegedly failed to: (1) provide employees with meal periods, second meal periods, or meal period premiums; (2) provide employees with rest breaks or rest break premiums; (3) pay proper and/or overtime wages to employees for all hours worked; (4) provide employees with accurate wage statements; (5) timely pay all wages owed to employees during each pay period and upon employment separation. Further, he alleges Defendants unlawfully engaged in unfair competition and is liable for civil penalties pursuant to California’s Private Attorneys General Act, California Labor Code section 2698, *et. seq.*

The Court has not determined that Mr. Beckom has the right to bring this lawsuit. The Court has also not determined that Mr. Beckom's claims and allegations about Defendants on behalf of himself or the Class Members are meritorious. Further, the Court has not determined that Defendants did anything unlawful here.

Nevertheless, after the exchange of relevant information and evidence, the Parties agreed to attend mediation in an attempt to informally resolve the claims in the case without Court proceedings progressing. On November 12, 2021, the Parties participated in a mediation with experienced and well-respected class action mediator Todd Smith, Esq. The Parties were able to negotiate a complete settlement of Plaintiff’s claims, with Mr. Smith’s guidance.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, The Setareh Law Group (“Class Counsel”), has investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. Class Counsel recognizes that, as inherent in all lawsuits, there is a risk and expense associated with continued litigation. Thus, while Class Counsel believes in Plaintiff’s case, they also believe settlement is justified. Class Counsel further believes the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendants have denied, and continue to deny, the factual allegations made by Plaintiff on behalf of himself and the Class Members. Moreover, Defendants have researched the applicable law and see no legal merit to any of the allegations raised by Plaintiff. Defendants are confident that they have valid factual and legal defenses to each and every one of Plaintiff's claims. By agreeing to settle, Defendants are not admitting any of the factual allegations or claims in the case, not admitting any legal liability in any manner, and not agreeing that the case can or should proceed as a class action. Defendants have agreed to settle the case as part of a compromise with Plaintiff, based on the additional cost of litigation.

SUMMARY OF THE PROPOSED SETTLEMENT TERMS

Plaintiff and Defendants have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$2,700,000.00. This amount is inclusive of: (1) individual settlement payments to all Class Members who do not opt-out; (2) an individual settlement payment to Plaintiff Rene Beckom for \$5,000.00 which includes a Class Representative Enhancement Payment of \$2,500 for acting as a representative of the class and a General Release Payment of \$2,500 for a general release of all claims arising out of his employment with Defendants; (3) \$900,000.00 in attorneys' fees and up to \$20,000.00 in litigation costs and expenses; (4) a \$200,000.00 payment to the California Labor and Workforce Development Agency ("LWDA") in connection and accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA") and Plaintiff's claim relating thereto, and (5) reasonable Settlement Administrator's fees and expenses currently estimated at \$26,000.00. After deducting the Class Representative Enhancement Payment; the General Release Payment; attorneys' fees, costs and expenses; the payment to the LWDA; and the Settlement Administrator's fees and expenses, a total of approximately \$_____ will be allocated to Class Members who do not opt out of the settlement ("Net Settlement Amount").

Each Class Member's settlement payment will be based on the number of Pay Periods during which each Class Member worked in a non-exempt position at any time from November 24, 2016 through February 4, 2022 ("Class Period"). The formula for calculating settlement payments is as follows:

- (a) Defendants will calculate the total aggregate number of Pay Periods that all Class Members worked during the applicable Class Period ("Total Pay Periods").
- (b) The value of each individual Pay Period shall then be determined by dividing the proceeds of the Net Settlement Amount by the Total Pay Periods amount, resulting in the "Pay Period Point Value."
- (c) An "Individual Settlement Payment" amount for each Class Member will then be determined by multiplying the individual Class Member's number of Pay Periods by the Pay Period Point Value.
- (d) The entire Net Settlement Amount will be disbursed to all Class Members who do not opt-out by submitting timely and valid Requests for Exclusion.

According to Defendants' records, you worked during the Class Period in a non-exempt position for a total of ____ Pay Periods. Accordingly, your estimated payment is approximately \$_____. If you believe the information provided above is incorrect, please contact the Settlement Administrator at _____. If you dispute the information stated above, Defendants' records will control unless you are able to provide documentation that establishes otherwise.

YOUR OPTIONS UNDER THE SETTLEMENT

YOU MUST CHOOSE ONLY ONE

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator via mail, if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, you will be deemed to have released or waived the following claims (“Released Claims): Any and all actions, causes of action, rights, liabilities, obligations, costs, expenses, damages, losses, claims, liabilities, suits, debts, demands, and benefits (including attorneys’ fees and costs), in law or in equity, known or unknown, suspected or unsuspected, matured or unmatured, based on or reasonably arising from, or related to, the same set of operative facts as those set forth in the operative complaint or PAGA Notice during the Class Period, including but not limited to: (i) all claims for meal and rest break violations; (ii) all claims for unpaid wages; (iii) all claims for unpaid overtime; (iv) all claims for the failure to timely pay wages during employment based on the preceding claims; (v) all claims for the failure to timely pay wages upon termination based on the preceding claims; (vi) all claims for wage statement violations based on the preceding claims; (vii) all claims asserted under California Business & Professions Code §§ 17200, *et seq.* based on the preceding claims; and (viii) all claims asserted under the Labor Code’s Private Attorneys General Act, California Labor Code §§ 2698, *et seq.* based on the preceding claims.

Option 2 – Opt Out of the Settlement via a Request for Exclusion

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written Request for Exclusion to the Settlement Administrator. The Requests for Exclusion **must** expressly and clearly indicate that: (1) you have received this Notice of Class Action Settlement, (2) decided not to participate in the settlement, and (3) desire to be excluded from this settlement. The written Request for Exclusion **must** also include your name, signature, address, telephone number, the last four digits of your Social Security Number, and the date you signed the Request for Exclusion. Mail the Request for Exclusion by First Class U.S. Mail or equivalent to the address below.

ILYM Group, Inc. - Settlement Administrator

The written Request for Exclusion must be postmarked or faxed no later than _____, 2023. If you submit a Request for Exclusion which is not postmarked or faxed by _____, 2023, your Request for Exclusion will be *rejected, and you will be included in the settlement class as a Class Member.*

If you choose **Option 2**, you will no longer be a Class Member, and you will: (1) be barred from participating in the settlement and receiving any payment of funds from the settlement, (2) not be deemed to have released the Released Claims, and (3) be barred from filing an objection to the settlement.

Option 3 – Object to the Settlement via Written Objection

If you decide to object to the settlement because you find it unfair or unreasonable, you must submit a Written Objection stating why you object to the settlement. Your objection **must** provide: (1) your full name, signature, address, telephone number and the date you signed the Written Objection, (2) a written statement of all grounds for your objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which your objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The Written Objection must be mailed to the Administrator at [administrator’s address].

All Written Objections must be received by the Administrator by not later than _____ 2023. Late Written Objections will not be considered. By submitting a Written Objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above in **Option 2**. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of Merced and discuss your Written Objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel – Shaun Setareh, The Setareh Law Group, 9665 Wilshire Boulevard, Suite 430, Beverly Hills, CA 90212, 310-888-7771.

EXHIBIT 2