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19 **SUPERIOR COURT OF CALIFORNIA**
20 **FOR THE COUNTY OF SAN JOAQUIN**

21 JOSE MAYORGA, individually and on behalf
22 of all other similarly situated employees,

23 Plaintiff,

24 vs.

25 BROWN STRAUSS, INC., a Delaware
26 Corporation; and DOES 1 to 100, inclusive,
27 Defendant.

Case No.: STK-CV-UOE-2020-0010906

**JOINT STIPULATION REGARDING CLASS
ACTION AND PAGA SETTLEMENT AND
RELEASE**

Filed: December 29, 2020
FAC Filed: April 5, 2021
Trial Date: None Set

This Joint Stipulation Regarding Class Action and PAGA Settlement and Release (“Agreement”) is made and entered into between the Plaintiff Jose Mayorga (“Plaintiff”), on behalf of himself, the Labor and Workforce Development Agency, and Aggrieved Employees, and Defendant Brown Strauss, Inc. (“Defendant”). This Agreement is subject to the terms and conditions set forth below and the approval of the Court.

1. DEFINITIONS

The following terms, when used in this Agreement, have the following meanings:

1.1 “Action” means the above stated lawsuit, *Mayorga v. Brown Strauss, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2020-0010906, filed December 28, 2020. The First Amended Complaint was filed April 5, 2021.

1.2 “Aggrieved Employee(s)” means all non-exempt employees who have or continue to work for Defendant in California during the PAGA Claim Period.

1.3 “Agreement” or “Settlement” or “Settlement Agreement” means this Joint Stipulation Regarding Class Action and PAGA Settlement and Release.

1.4 “Claim Amount” means an individual Qualified Claimant’s and Aggrieved Employee’s allocation of the Net Settlement Amount and PAGA Payment respectively, as defined in Sections 1.20, 1.24, 5.5, and 5.8.

1.5 “Claims Administrator” means and refers to Simpluris, Inc., the third-party entity that will administer the Agreement as outlined in Sections 4 and 7, or any other third-party class action settlement claims administrator agreed to by the Parties and approved by the Court for the purposes of administering this Agreement. The Parties each represent that they do not have any financial interest in the Claims Administrator or otherwise have a relationship with the Claims Administrator that could create a conflict of interest.

1.6 “Claims Administrator Costs” means the fees and expenses reasonably incurred by the Claims Administrator as a result of the procedures and processes expressly required by this Agreement, and shall include all costs of administering the Agreement, including, but not limited to, all tax document preparation, custodial fees, and accounting fees incurred by the Claims Administrator; all costs and fees associated with preparing, issuing and mailing any and all notices and other correspondence to Class

1 Members and/or Aggrieved Employees; all costs and fees associated with communicating with Class
2 Members and/or Aggrieved Employees, Class Counsel, and Defendant's Counsel; all costs and fees
3 associated with computing, processing, reviewing, and paying the Claim Amounts, and resolving disputes;
4 all costs and fees associated with calculating tax withholdings and payroll taxes, if any, making related
5 payment to federal and state tax authorities, if any, and issuing tax forms relating to payments made under
6 the Agreement; all costs and fees associated with preparing any tax returns and any other filings required
7 by any governmental taxing authority or agency; all costs and fees associated with preparing any other
8 notices, reports, or filings to be prepared in the course of administering Claim Amounts; and any other
9 costs and fees incurred and/or charged by the Claims Administrator in connection with the execution of
10 its duties under this Agreement.

11 1.7 "Class Counsel" means Galen T. Shimoda and Justin P. Rodriguez, of the Shimoda Law
12 Corp.

13 1.8 "Class Member(s)" means all non-exempt employees who have or continue to work for
14 Defendant in California during the Class Period. The estimated number of Aggrieved Employees is 66.

15 1.9 "Class Period" means December 28, 2016 up to either (1) the Preliminary Approval Date,
16 or (2) 60 days after this Agreement is fully executed, whichever is earlier.

17 1.10 "Class Representative" means Plaintiff Jose Mayorga.

18 1.11 "Complaint" means the operative Complaint on file in the Action with the Court.

19 1.12 "Court" means the San Joaquin County Superior Court.

20 1.13 "Defendant" means Brown Strauss, Inc.

21 1.14 "Defendant's Counsel" means Medina McKelvey LLP.

22 1.15 "Enhancement Payment" means the amount approved by the Court to be paid to the Class
23 Representative in recognition of the time and effort expended on behalf of Class Members for the benefit
24 of Class Members, which is in addition to any Claim Amount paid to the Class Representative as a
25 Qualified Claimant.

26 1.16 "Effective Date" means either (a) the 60th calendar day after a signed order granting final
27 approval of this Agreement has been filed provided no motion to vacate the judgment, appeal, writ or
28 other appellate proceeding having been filed; or (b) the seventh (7th) calendar day after any motion to

1 vacate the judgment, appeal, writ, or other appellate proceeding opposing the Agreement has been finally
2 dismissed with no material change to the terms of this Agreement and there is no right to pursue further
3 remedies or relief, whichever is later.

4 1.17 "Final Approval Date" means the date a signed order granting final approval of this
5 Agreement is filed with the Court.

6 1.18 "Gross Settlement Amount" is the sum of Two Hundred Forty Thousand Dollars and No
7 Cents (\$240,000.00).

8 1.19 "LWDA" means the California Labor and Workforce Development Agency.

9 1.20 "Net Settlement Amount" is the portion of the Gross Settlement Amount available for
10 distribution to Qualified Claimants, as described in this Agreement, after deduction of Plaintiff's attorneys'
11 fees and litigation costs, Claims Administrator Costs, the PAGA Payment, employer's taxes, and
12 Enhancement Payment to the Class Representative.

13 1.21 "Notice of Settlement" means the document substantially in the form attached hereto as
14 Exhibit 1.

15 1.22 "Notice Period" means forty-five (45) calendar days from the initial mailing of the Notice
16 of Settlement to Class Members and Aggrieved Employees.

17 1.23 "PAGA" means Private Attorneys General Act.

18 1.24 "PAGA Payment" means the amount allocated from the Gross Settlement Amount towards
19 resolving claims under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.*

20 1.25 "PAGA Claim Period" means December 23, 2019 to up to either (1) to the Preliminary
21 Approval Date or (2) 60 days after this Agreement is fully executed, whichever is earlier.

22 1.26 "Parties" mean Defendant and Plaintiff.

23 1.27 "Preliminary Approval Date" means the date a signed order granting preliminary approval
24 of this Agreement is filed with the Court.

25 1.28 "QSF" means a Qualified Settlement Fund set up by the Claims Administrator for the
26 benefit of the Qualified Claimants and/or Aggrieved Employees and from which the payments under this
27 Agreement shall be made. Any amounts Defendant has agreed to pay under this Agreement shall remain
28 the property of Defendant until the payments required under the Agreement are made.

1.29 "Qualified Claimant" means any and all Class Members who have not made any timely request to opt-out of the Agreement.

1.30 "Qualified Claimant's Released Claims" means all claims contained in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the operative Complaint, through the Class Period. This release excludes the release of claims not permitted by law. The Qualified Claimant's Released Claims exclude claims for workers' compensation or unemployment insurance benefits. This release will cover all Class Members who do not opt out.

1.31 "Qualifying Workweeks" are weeks worked by Class Members and/or Aggrieved Employees during the Class Period and/or PAGA Claim Period, respectively, in California. For Class Members, workweeks shall be defined as the total length of service (in days) in California during the Class Period divided by seven. For Aggrieved Employees workweeks shall be defined as the total length of service (in days) in California during the PAGA Claim Period divided by seven. The calculation of a Class Member's and/or Aggrieved Employee's workweeks and a determination as to whether a Class Member and/or Aggrieved Employee was actively employed in California in a particular workweek shall be construed from Defendant's records.

1.32 "Released PAGA Claims" means any and all claims that were brought under the Private Attorneys General Act, Labor Code § 2698 et seq., based on the facts or claims alleged in the Action during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

1.33 "Released Parties" means Defendant, as well as Defendant's officers, shareholders, directors, agents, employees, attorneys, and insurers.

2. DESCRIPTION OF THE LITIGATION

2.1 On or about December 23, 2020, Plaintiff sent notice to the LWDA to exhaust administrative remedies under the PAGA for failure to pay overtime, failure to provide meal periods, failure to provide rest periods, failure to pay final wages, wage statement violations, failure to maintain accurate records, failure to provide paid sick leave, violation of Labor Code section 558, and failure to pay accrued and unused vacation. The LWDA did not respond to the notice within the statutorily required time frame and, as such, Plaintiff became authorized to act as a Private Attorneys General on all alleged PAGA claims.

1 2.2 On or about December 28, 2020, Plaintiff filed a class action Complaint in San Joaquin
2 County Superior Court on behalf of himself and Class Members alleging claims for failure to pay
3 overtime, meal period violations, rest period violations, wage statement violations, waiting time penalties,
4 unfair competition, and failure to pay accrued vacation. Plaintiff filed a First Amended Complaint on
5 approximately April 5, 2021 to add a PAGA cause of action based on the violations alleged in the
6 December 23, 2020 notice to the LWDA on behalf of himself and Aggrieved Employees.

7 2.3 Through informal discovery, Defendant and Defendant's Counsel provided Class
8 Counsel with copies of all applicable versions of its policies and procedures, employee handbooks,
9 information on Class Members including, but not limited to, Class Members' workweeks, dates of
10 employment, total number of Class Members, their rates of pay, and pay periods as well as timecard data
11 and payroll reports for a randomly selected sample of Class Members.

12 2.4 On May 25, 2021, the Parties participated in a lengthy mediation with private mediator
13 Hon. Ronald M. Sabraw (Ret.). At the conclusion of the mediation, the Parties were able to come to a
14 resolution. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at
15 arm's length.

16 2.5 Discussions between Plaintiff and Class Counsel, between counsel for the Parties,
17 document productions, extensive legal analysis, the provision of information by Defendant to Plaintiff and
18 the detailed analysis of the records, including expert analysis, have permitted each side to assess the
19 relative merits of the claims and the defenses to those claims.

20 2.6 Defendant has denied each of Plaintiff's claims and Defendant has denied that this Action
21 is appropriate for class certification for anything other than settlement purposes. The agreed upon Gross
22 Settlement Amount was reached after evaluating the Parties' theories of potential exposure for the
23 underlying claims and the class data supporting these claims. The Parties, with the assistance of the
24 mediator, also assessed appropriate discounts to the potential liability based on Defendant's factual and
25 legal contentions and defenses.

26 2.7 The Parties agree that the above-described investigation and evaluation, as well as
27 discovery and the information exchanged to date, are more than sufficient to assess the merits of the
28 respective Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff, Class

Counsel, Defendant, and Defendant's Counsel have concluded that it is desirable that the Action be settled in a manner and upon such terms and conditions set forth herein in order to avoid further expense, inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the Parties potentially face in the Action. Therefore, the Parties desire to resolve the claims in the Action. Plaintiff, Class Counsel, Defendant, and Defendant's Counsel are of the opinion that the Agreement for the consideration and terms set forth herein is fair, reasonable, and adequate in light of all known facts and circumstances.

3. THE CONDITIONAL NATURE OF THIS AGREEMENT

3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose of settling the Action. This Agreement and the settlement it evidences are made in compromise of disputed claims. Because the Action was pled as a class action, this Agreement must receive preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement and associated settlement on a conditional basis. If the Court does not enter an order granting final approval of the Agreement, or if the Court's approval of the settlement is reversed or materially modified on appellate review, this Agreement shall be deemed null and void; it shall be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of evidence that may be applicable.

3.2 Defendant has denied all claims as to liability, damages, liquidated damages, penalties, interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendant has agreed to resolve the Action via this Agreement, but to the extent this Agreement is deemed void or the Final Approval Date does not occur, Defendants do not waive, but rather expressly reserve, all rights to challenge all such claims and allegations in the Action upon all procedural and factual grounds, including, without limitation, the ability to challenge class or collective treatment on any grounds, as well as to assert any and all other potential defenses or privileges.

4. SCOPE OF THE CLASS

4.1 The scope of the class of individuals encompassed under the Agreement, who are entitled to all benefits as authorized under the Agreement and subject to all obligations and duties required under

the Agreement, shall include all Class Members as defined in Section 1.8 and all Aggrieved Employees as defined in Section 1.2. However, it shall not include any Class Members who submit valid and timely requests to opt-out of the Agreement and settlement, as set forth in Section 7.5.1.

4.2 Individuals entitled to recover under this Agreement will include only those individuals who are identified as being within the scope of this Agreement under Section 4.1.

4.3 Any person who believes that he or she is a Class Member or Aggrieved Employee and wishes to participate in the Agreement, but did not receive a Notice of Settlement because his or her name did not appear on the class list provided to the Claims Administrator prior to mailing, may submit a data request to the Claims Administrator. The data request must contain all of the following information: (a) the full name and, if applicable, Social Security Number of the individual making the request; (b) the name used by such employee as of the time his or her employment with Defendant ended; (c) the years during which such employee was employed with Defendant; and (d) a return address to which a response may be sent. Every data request must be postmarked on or before the conclusion of the Notice Period or otherwise submitted to the Claims Administrator such that it is received before the conclusion of the Notice Period. Upon receipt of any data requests, the Claims Administrator shall promptly (in no event more than two business days) transmit the data requests to Defendant's Counsel and request that Defendant review their records.

4.4 If Defendants do agree that the person listed in a data request is a Class Member and/or Aggrieved Employee, the Claims Administrator shall promptly mail a Notice of Settlement to the person who submitted the data request, at the address designated for that purpose in the data request. All provisions of this Agreement relating to the Notice of Settlements shall apply to Notice of Settlements sent in response to data requests, and any person who submits a data request and is sent a Notice of Settlement in response shall be treated by the Claims Administrator as a Class Member and/or Aggrieved Employee for all other purposes.

4.5 If Defendants do disagree that the person listed in a data request is a Class Member and/or Aggrieved Employee, Defendant's Counsel and Class Counsel shall attempt to resolve any such dispute in good faith within seven (7) calendar days of Class Counsel being advised in writing of the data request dispute. Defendant's records shall control unless the individual submitting the data request provides

persuasive evidence to doubt the accuracy of those records. Each data request dispute that Defendant's Counsel and Class Counsel cannot timely resolve shall be resolved by the Claims Administrator. The Claims Administrator must accept and weigh all the evidence provided in a good faith attempt to resolve the dispute. The Claims Administrator must resolve any dispute submitted to it within seven (7) calendar days after Defendant's Counsel and Class Counsel submit the dispute to the Claims Administrator. The decision by the Claims Administrator shall be final and there shall be no right of appeal.

5. TERMS OF THE SETTLEMENT

The Parties agree as follows:

5.1 Gross Settlement Amount: In consideration and exchange for the releases described in Section 6, Defendant shall pay the Gross Settlement Amount (\$240,000.00). Funding of the Gross Settlement Amount shall occur within twenty-one (21) days after the Final Approval Date to be held in trust in a QSF by the Claims Administrator until the Effective Date. The Gross Settlement Amount includes payments to Qualified Claimants, Aggrieved Employees, all attorneys' fees, costs and litigation expenses related to the Action incurred to date, any monies necessary to satisfy Defendant's tax obligations (e.g. employer FICA, FUTA and SDI contributions on wage payments) on any monies distributed to Qualified Claimants, as well as all such fees and costs incurred in documenting the Agreement, administering the Agreement (including Claims Administrator Costs), and obtaining final approval of the Agreement, the Enhancement Payment to the Class Representative and the PAGA Payment.

5.2 Attorneys' Fees and Costs: Class Counsel will apply to the Court for attorney's fees of 35% or \$84,000.00 of the Gross Settlement Amount, which shall be paid from the Gross Settlement Amount. Defendant has agreed to not oppose Class Counsel's application for attorneys' fees so long as it does not exceed the \$84,000.00 threshold. Class Counsel will also be entitled to reimbursement for advanced litigation expenses not to exceed \$12,500.00, which shall be paid from the Gross Settlement Amount. Defendant has agreed to not oppose Class Counsel's request for reimbursement for advanced litigation expenses so long as they do not exceed the \$12,500.00 threshold. The Claims Administrator will issue Class Counsel an IRS Form 1099 for the attorneys' fees and costs paid under this Agreement. In the event that the Court awards less than the requested attorney's fees and/or costs, the portion of the

requested amounts not awarded to Class Counsel shall be added to the Net Settlement Amount to be distributed to Qualified Claimants on a pro rata basis.

5.3 Claims Administrator Costs: The Claims Administrator Costs shall be paid from the Gross Settlement Amount and shall not exceed \$5,000.00. The difference between any actual costs and the allocated \$5,000.00 shall be added to the Net Settlement Amount.

5.4 Enhancement Payment: Class Counsel, on behalf of Plaintiff, shall apply to the Court for an Enhancement Payment to the Class Representative in an amount not to exceed Five Thousand Dollars and No Cents (\$5,000.00) to compensate for the risks, time, and expense of his involvement in the Action and securing the benefits of this Agreement for Class Members. The Enhancement Payment is in addition to the Claim Amount Plaintiff would otherwise be due under the Agreement as a Qualified Claimant. Defendant has agreed to not oppose Class Counsel's request for an Enhancement Payment to Plaintiff so long as it does not exceed the amount stated herein. The Enhancement Payment will be designated as a non-wage payment and reported on an IRS Form 1099. In the event that the Court awards less than the Enhancement Payment amount requested, then any portion of the requested amount not awarded to the Class Representative shall be added to the Net Settlement Amount to be distributed to Qualified Claimants on a pro rata basis.

5.5 PAGA Payment: Ten Thousand Dollars and No Cents (\$10,000.00) of the Gross Settlement Amount shall be allocated to resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be paid to the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees on a pro rata basis as described below in Section 5.8. Any amount not approved by the Court for the allocated PAGA Payment shall be added to the Net Settlement Amount to be distributed to Qualified Claimants on a pro rata basis.

5.6 Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount or PAGA Payment allocated to Qualified Claimants and/or Aggrieved Employees that were not claimed by cashing their respective settlement checks before the deadline to do so, that remaining amount shall be donated equally, i.e. 50/50, to Capital Pro Bono, Inc. and the Center for Workers' Rights. No portion of the Gross Settlement Amount will revert to Defendant for any reason.

1 5.7 No Additional Benefits Contributions: All Claim Amounts paid to Qualified Claimants
2 and Aggrieved Employees shall be deemed to be income solely in the year in which such amounts were
3 actually received. It is expressly understood and agreed that the receipt of such Claim Amounts will not
4 entitle any Qualified Claimant or Aggrieved Employee to any new or additional compensation or benefits
5 under any company bonus or other compensation or benefit plan or agreement in place during the period
6 covered by the Agreement, nor will it entitle any Qualified Claimant Aggrieved Employee to any increased
7 retirement, 401(k) and/or 403(b) benefits or matching benefits, or deferred compensation benefits. It is
8 the intent of this Agreement that the Claim Amounts provided for in this Agreement are the sole payments
9 to be made by Defendant to the Qualified Claimants and Aggrieved Employees in connection with this
10 Agreement (notwithstanding any contrary language or agreement in any benefit or compensation plan
11 document that might have been in effect during the period covered by this Agreement).

12 5.8 Pro Rata Distribution Formula: Payment to Qualified Claimants and Aggrieved
13 Employees of their Claim Amount will not require the submission of a claim form. A Net Settlement
14 Amount will be determined by subtracting from the Gross Settlement Amount any amounts for approved
15 attorneys' fees and costs, any Enhancement Payment to the Class Representative, the Claims
16 Administrator Costs, and the PAGA Payment. Each Class Member's share will be determined by dividing
17 their total weeks worked within the Class Period by the total weeks worked by all Class Members within
18 the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class
19 Member's individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25%
20 portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA
21 Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period.
22 That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved
23 Employee's individual share. Where a Qualified Claimant is receiving payment for both the PAGA Claim
24 Period and the Class Period, they will receive only one check with the payments for each combined into
25 a single payment.

26 5.9 Tax Allocation: The Parties recognize that the Claim Amounts to be paid to Qualified
27 Claimants and/or Aggrieved Employees reflect a settlement of a dispute over claimed penalties and wages.
28 The Claims Administrator shall calculate the employer's share of payroll taxes on the amounts paid to

1 Qualified Claimants as wages as well as calculating all required withholdings and deductions from said
2 wage payments. The characterization of Claim Amounts to Qualified Claimants and Aggrieved
3 Employees are as follows:

4 5.9.1 One third (1/3) of each Qualified Claimants' Claim Amount shall be allocated for
5 payment of disputed wages and shall be subject to required employer taxes. Qualified Claimants shall
6 receive an IRS Form W-2 for reporting of this portion of their Claim Amount.

7 5.9.2 Two thirds (2/3) of each Qualified Claimants' Claim Amount shall be allocated for
8 disputed statutory penalties and interest, and no amount shall be deducted for any taxes. This portion of
9 the Claim Amount consists of other income, not wages, for which the Qualified Claimants shall receive
10 an IRS Form 1099-MISC.

11 5.9.3 The entirety (100%) of each Aggrieved Employee's share of the 25% portion of the
12 PAGA Payment shall be allocated for payment of disputed civil penalties, and no amount shall be deducted
13 for any taxes. This portion of the Claim Amount consists of other income, not wages, for which the
14 Aggrieved Employees shall receive an IRS Form 1099-MISC.

15 5.10 Qualified Claimants and Aggrieved Employees shall be solely responsible for the reporting
16 and payment of their share of any federal, state and/or municipal income or other taxes on payments made
17 pursuant to this Agreement, and shall hold the Parties, Class Counsel, and Defendant's Counsel free and
18 harmless from any claims resulting from treatment of such payments as non-taxable, including the
19 treatment of such payments as not subject to withholding or deduction for payroll and employment taxes.
20 No party has made any representation to any of the other Parties as to the taxability of any payments
21 pursuant to this Agreement, including the payments to Qualified Claimants, the payments to Aggrieved
22 Employees, the payments to Class Counsel, the payments to the Class Representative, the payroll tax
23 liability of Defendant, or the allocation of the Net Settlement Amount or PAGA Payment to wage and
24 non-wage income as provided in this Section, or otherwise as to tax implications of any provision of this
25 Agreement.

26 5.11 No Additional Contribution by Defendant: Defendant's monetary obligation under this
27 Agreement is limited to the Gross Settlement Amount. All costs and expenses arising out of or in
28 connection with the performance of this Agreement shall be paid from the Gross Settlement Amount,

1 unless expressly provided otherwise herein. However, in the event this agreement is deemed null and
2 void as described in Section 3 because the Court, in its independent determination, finds that the
3 Agreement does not meet the standards for settlement approval, then Defendant and Plaintiff shall be
4 equally responsible for the costs of the Claims Administrator incurred between the date the Agreement
5 was executed and the date of such event.

6 5.12 Certification For Settlement Purposes: The Parties agree that, for purposes of settlement
7 only, certification of the class as defined in Section 1.8 and 4.1 is appropriate and the requisites for
8 establishing class certification have been met and are met.

9 5.13 Adequacy of Class Counsel and Class Representatives: The Parties agree that, for purposes
10 of settlement only, Class Counsel and Plaintiff are adequate representatives for Class Members and
11 Aggrieved Employees.

12 **6. RELEASE**

13 6.1 Release of Claims by Qualified Claimants: Upon the Effective Date, all Qualified
14 Claimants will be deemed to fully, finally and forever release Qualified Claimant's Released Claims as to
15 all Released Parties. In addition, on the Effective Date, all Qualified Claimants and their successors in
16 interest will be permanently enjoined and forever barred from prosecuting any of Qualified Claimant's
17 Released Claims against any of the Released Parties.

18 6.2 Release of Claims by Aggrieved Employees: Upon the Effective Date, all Aggrieved
19 Employees will be deemed to fully, finally and forever release the Released PAGA Claims as to all
20 Released Parties. In addition, on the Effective Date, all Aggrieved Employees and their successors in
21 interest will be permanently enjoined and forever barred from prosecuting any of the Released PAGA
22 Claims against any of the Released Parties.

23 6.3 Notwithstanding anything that might be interpreted to the contrary in this Agreement,
24 Plaintiff is not waiving any individual claims for wrongful termination or related claims which are the
25 subject of a separate lawsuit filed by Plaintiff in San Joaquin County Superior Court, Case No. STK-CV-
26 UWT-2021-0001625.

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7. SETTLEMENT ADMINISTRATION

7.1 Duties of Claims Administrator: The Claims Administrator shall be responsible for: 1) receiving Class Member and Aggrieved Employee contact information and confirming addresses are valid; 2) calculating estimated Claim Amounts and any and all taxes associated with the Claim Amounts, including Employer taxes; 3) taking appropriate steps to trace and locate any individual Class Members and Aggrieved Employee whose address or contact information as provided to the Claims Administrator is inaccurate or outdated and mailing the Notice of Settlement to Class Members; 4) providing notification to the appropriate state and federal officials of this Agreement as required under the law; 5) receiving, independently reviewing, and resolving any challenges (in consultation with Class Counsel and Defendant's Counsel) from Class Members or Aggrieved Employees, including any associated documentation, regarding their Qualified Workweek calculations; 6) receiving and serving on Class Counsel, Defendant's Counsel, and the Court, copies of any written objections, and/or any opt out statements; 7) establishing a toll free telephone line and responding to inquiries and requests for information or assistance from Class Members and/or Aggrieved Employees; 8) maintaining a QSF; 9) determining and paying the final amounts due to be paid under the Agreement after resolution of all challenges, disputes, opt-outs, awarded attorneys' fees and costs, Claims Administrator Costs, PAGA Payment, taxes, any Enhancement Payments, and for funds that cannot be distributed due to the inability to locate Class Members or Aggrieved Employees; 10) determining the validity of any disputes or late opt-outs by previously unidentified Class Members or Aggrieved Employees; 11) paying any residual funds from uncashed checks; 12) reporting to Class Counsel and Defendant's Counsel regarding the statistics of the administration, including (a) the number of initial Notice of Settlements mailed; (b) the number of forwarded Notice of Settlements; (c) the number of re-mailed Notice of Settlements; (d) the number of total undeliverable Notice of Settlements; (e) the number of address traces performed for undeliverable Notice of Settlements; (f) the number of Notice of Settlements undeliverable from traced addresses; (g) the number of total objections received; (h) the number of opt-out requests received; (i) the number of disputes received; (j) the number of disputes resolved; 13) providing a declaration to the Court regarding the final statistics of the administration and compliance with all payment obligations under the Agreement; 14) completing all necessary tax reporting on the QSF and payment of the Claim Amounts to

1 Qualified Members and Aggrieved Employees; and 15) carrying out other related tasks as necessary to
2 effectuate the terms of this Agreement and any Order of the Court. All disputes relating to the Claims
3 Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which
4 will have continuing jurisdiction over the terms and conditions of this Agreement, until all payments and
5 obligations contemplated by the Agreement have been fully executed.

6 7.2 Notice to Class Members and Aggrieved Employees: The Notice of Settlement will
7 provide Class Members and Aggrieved Employees with a summary of the terms and conditions of the
8 Agreement, how to participate in the settlement, how to object to the Agreement, how to dispute the
9 individual's Qualifying Workweeks, and how to opt-out from the Agreement. The Notice of Settlement
10 will also inform Class Members and Aggrieved Employees of the Gross Settlement Amount, Net
11 Settlement Amount, proposed attorneys' fees and costs allocations, any proposed Enhancement Payments,
12 proposed Claims Administrator Cost allocations, proposed PAGA Payment allocations, the scope of the
13 class, the nature and extent of the released claims, dates set for a fairness hearing and hearing on Class
14 Counsels' motion for attorneys' fees and costs. The Notice of Settlement shall include information
15 regarding Class Member's and Aggrieved Employee's estimated Claim Amount.

16 7.3 Class Member Data and Mailing: No later than fourteen (21) calendar days after the
17 Preliminary Approval Date, Defendant shall provide the Claims Administrator with the name, last known
18 mailing address, last known telephone number, Social Security Number, start and end date of employment
19 (if any) of each Class Member, and any other information the Claims Administrator needs to effectuate
20 notice to Class Members and Aggrieved Employees as outlined herein. The Claims Administrator shall
21 review the data to determine the number of Qualifying Workweeks for each Class Member and Aggrieved
22 Employee. No later than fourteen (14) calendar days after receipt of such address information, the Claims
23 Administrator will perform a national change of address ("NCOA") search, update the addresses per the
24 results of the NCOA search, and then mail the Notice of Settlement, substantially in the form attached as
25 Exhibit 1, to each Class Member and Aggrieved Employee by first-class mail, postage prepaid. The
26 Claims Administrator shall maintain all information received from Defendant confidential to itself, and
27 Defendant's Counsel. However, Class Counsel shall be able to review the breakdown of Qualified
28

1 Workweeks and estimated Claim Amounts for Class Members and Aggrieved Employees prior to mailing
2 for quality assurance provided the personal identifying information is redacted and/or omitted.

3 7.4 Returned and/or Re-mailed Notice of Settlements: In the event that a Notice of Settlement
4 is returned to the Claims Administrator as non-delivered on or before the conclusion of the Notice Period,
5 the Notice of Settlement shall be sent to the forwarding address affixed thereto within five (5) calendar
6 days. If no forwarding address is provided, then the Claims Administrator shall promptly attempt to
7 determine a correct address using a single skip-trace, computer or other search using the name, address
8 and/or Social Security number of the individual involved, and shall then perform a single re-mailing within
9 five (5) calendar days. Following each search that does not result in a corrected address, for those Class
10 Members who appear to be current employees of Defendant at the time of the Preliminary Approval Date,
11 the Claims Administrator shall contact Defendant's Counsel for assistance and Defendant shall cooperate
12 in good faith with the Claims Administrator's reasonable efforts to obtain valid mailing addresses for
13 Class Members to the extent they are active employees of Defendant. In the event the Notice of Settlement
14 is forwarded to a new address and/or re-mailed to a Class Member, the deadline for the Class Member to
15 submit any request to opt-out, dispute, or objection shall be the end of the Notice Period or 10 days from
16 the date of the re-mailing, whichever is later. In the event the procedures in this Section are followed and
17 the Class Member does not timely and properly request to opt-out, the Class Member shall be bound by
18 all terms of the Agreement, including the Releases contained in Section 6.

19 7.5 Responses to Notice of Settlement:

20 7.5.1 *Opt-Outs:* The Notice of Settlement shall provide that Class Members who wish
21 to exclude themselves from the Agreement must submit a request to opt-out as provided in this Section.
22 The request to opt-out must (a) state the Class Member's full name and date of birth; (b) a statement that
23 he or she does not want to be a Class Member, does not want to participate in the settlement, and/or wants
24 to be excluded from the settlement; (c) identify the case name and number (i.e. Mayorga v. Brown Strauss,
25 Inc., STK-CV-UOE-2020-0010906); (d) be signed; and (e) be post-marked no later than the conclusion
26 of the Notice Period or the re-mailing timeline stated in Section 7.4. The Class Member must personally
27 sign the request to opt-out. No request to opt-out may be made on behalf of a group of Class Members.
28 The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine

whether a request to opt-out has been timely submitted. Any Class Member who requests to opt-out of the Agreement will not be entitled to any benefit of the Agreement or any portion of the Net Settlement Amount, will not be bound by the Agreement, nor will they have any right to object, appeal or comment thereon. Class Members who fail to submit a valid and timely request to opt-out shall be bound by all terms of the Agreement and any order or final judgment thereon, regardless of whether they otherwise have requested to opt-out of the Agreement. Aggrieved Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt out of being a Class Member.

7.5.2 Objection Procedures: Any Class Member who does not opt-out but who wishes to object to this Agreement or otherwise to be heard concerning this Agreement shall send their written objections to the Claims Administrator and also serve copies of the objections on Class Counsel and Defendant's Counsel. The Notice of Settlement shall make clear that the Court can only approve or deny the Agreement, not change the terms of the Agreement. The objection must (a) state the Class Member's full name and date of birth; (b) provide evidence that the individual is, in fact, a Class Member; (c) state the reasons for the objection(s), including any legal analysis and/or supporting documentation; (d) identify the case name and number (i.e. Mayorga v. Brown Strauss, Inc., STK-CV-UOE-2020-0010906) (e) be signed; and (f) be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The objecting Class Member must also file a notice of intent to appear with the Court and serve the notice on Class Counsel and Defendant's Counsel, if they intend to appear at the final approval hearing.

7.5.3 Dispute Procedures: Any Class Member who disputes the number of Qualifying Workweeks on the Notice of Settlement shall contact the Claims Administrator. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The Claims Administrator shall promptly (in no event more than two business days) forward all such disputes to Defendant's Counsel and request that Defendant review the dispute. Defendant's records shall presumptively control unless the Class Member can produce documentation evidencing other periods of employment worked. If Defendants do agree with submitted

information, the Class Member shall be credited or subtracted Qualifying Workweeks in accordance with their submitted dispute and that final number of Qualified Workweeks shall govern the calculation of that Class Member's Claim Amount. If Defendants do not agree with the submitted information, Defendant's Counsel will promptly advise Class Counsel of the dispute, which includes turning over any documentation submitted by the Class Member as part of the dispute. Defendant's Counsel and Class Counsel shall attempt in good faith to resolve any such dispute within five (5) calendar days of Class Counsel being advised of the dispute. Each dispute that Defendant's Counsel and Class Counsel cannot timely resolve shall be resolved by the Claims Administrator or Court.

7.5.4 Deficient Opt-Outs, Objections, or Disputes: In the event that a deficient opt-out, objection, or dispute is received on or before the conclusion of the Notice Period, the Claims Administrator shall mail a letter to the Class Member within five (5) calendar days informing them of the deficiency. If a deficiency letter is mailed to a Class Member, the deadline for the Class Member to cure the deficiency shall be the end of the Notice Period or 10 days from the date of the deficiency letter, whichever is later.

7.6 Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.1 to 7.5.4 shall constitute due and sufficient notice to Class Members of the Action and the Agreement and shall satisfy Class Members' due process rights. Nothing else shall be required of the Parties, Class Counsel or Defendant's Counsel to provide notice of the proposed Agreement.

7.7 Claims Administrator Declaration Regarding Notice Period: Within twenty-one (21) days after the conclusion of the Notice Period, the Claims Administrator shall provide Class Counsel and Defendant's Counsel with a signed declaration under penalty of perjury providing a complete and detailed report regarding the statistics and responses of settlement administration to date and all the Claims Administrators' obligations under Sections 5.8 to 5.9-5.9.3, 7.1 to 7.5.4, and 7.9.

7.8 Claims Administrator Payments to Qualified Claimants, Class Counsel and Plaintiff: Within seven (7) calendar days after the Final Approval Date and the Court's determination of the amount of attorneys' fees and costs payable to Class Counsel, the Enhancement Payment payable to Plaintiff, the PAGA Payment, and Claims Administrator Costs, the Claims Administrator shall calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendant's

Counsel. Defendant shall wire the Gross Settlement Amount and applicable taxes necessary to fund the Settlement as described in Section 5.1 to the Claims Administrator within twenty-one (21) days after the Final Approval Date to be held in trust in a QSF. On the Effective Date, the Claims Administrator shall deliver payment of Class Counsels' attorney's fees and costs, the Enhancement Payment payable to Plaintiff, the 75% portion of the PAGA Payment payable to the LWDA, Claims Administrator Costs, and payment to Qualified Claimants and/or Aggrieved Employees as required under this Agreement and approved by Court.

7.8.1 The Claims Administrator shall wire the Court-approved attorneys' fees and costs to Class Counsel unless other method is requested by Class Counsel. Class Counsel shall provide the Claims Administrator with the pertinent taxpayer identification number and payment instructions after the Final Approval Date.

7.8.2 The Claims Administrator shall send a check by mail for the Court-approved Enhancement Payment to the Class Representative, care of Class Counsel unless other method is requested by Class Counsel.

7.8.3 Only Qualified Claimants and Aggrieved Employees will receive their Claim Amount.

7.8.4 The Claims Administrator shall remit and report the applicable portions of the payroll tax payment to the appropriate taxing authorities on a timely basis pursuant to its duties under this Agreement. Defendant agree to reasonably cooperate with the Claims Administrator to the extent necessary to determine the amount of the payroll tax payment required.

7.9 Settlement Check Expiration and Uncashed Checks: The Claims Administrator shall issue Claim Amounts to Qualified Claimants and Aggrieved Employees in the form of a check, which shall become null and void if not deposited within one hundred twenty (120) calendar days of issuance. After one hundred twenty (120) calendar days of issuance, the checks shall be voided and funds from all uncashed checks shall be transmitted in accordance with Section 5.6. The Claims Administrator shall deliver these funds within fourteen (14) calendar days after the check cashing deadline.

7.10 Claims Administrator Declaration Regarding Compliance and Settlement Administration: Within twenty-one (21) days after the last day for Qualified Claimants and Aggrieved Employees to cash

their settlement checks, the Claims Administrator shall provide Class Counsel and Defendant's Counsel with a signed declaration under penalty of perjury providing a complete and detailed report regarding the settlement administration documenting that all payments under the Agreement have been made, that the Court's final approval order has been complied with, and that all the obligations of the Claims Administrator have been completed.

8. PRELIMINARY SETTLEMENT ADMINISTRATION SCHEDULE

8.1 The schedule may be modified depending on whether and when the Court grants necessary approvals, orders notice to Class Members, and sets further hearings. The schedule may also be modified to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously as reasonably practicable. The preliminary schedule for notice, approval, and payment procedures carrying out the Agreement is as follows:

Last day for Defendant to provide Claims Administrator with Class Member information	Within 21 calendar days after the Preliminary Approval Date
Last day for Claims Administrator to complete NCOA search, update Class Member mailing information, and mail Notice of Settlement	Within 14 calendar days after the Claims Administrators' receipt of Class Members' information from Defendant
Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	45 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
Last day for Claims Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 21 calendar days after end of the Notice Period
Last day for Claims Administrator to calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendant's Counsel	Within 7 days after the Final Approval Date

Last day for Defendant to fund settlement	Within 21 calendar days after Final Approval Date
Last day for Claims Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to Aggrieved Employees	The Effective Date
Last day for Qualified Members and Aggrieved Employees to cash settlement checks	120 days after issuance of checks to Qualified Members and Aggrieved Employees
Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 days after settlement check cashing deadline
Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 days after settlement check cashing deadline

9. DUTIES OF THE PARTIES

9.1 Preliminary Approval: The Parties will cooperate in obtaining, through an unopposed motion to be filed as soon as reasonably practicable, an order from the Court preliminarily approving this Agreement at the earliest possible date concurrently with the Court's certification of the Action as a class action for settlement purposes. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain certification for settlement purposes, approval of, and implementation of this Agreement. The Parties will submit this Agreement to the Court for preliminary approval of its terms and for approval of the steps to be taken to obtain its final approval. Within one week of signing this Agreement Class Counsel shall provide a draft of the Preliminary Approval Motion to Defendant's Counsel. Defendant's Counsel will provide comments and/or proposed revisions within one week after receipt of the draft Preliminary Approval Motion from

Class Counsel. With regard to the final approval documents, a similar one-week maximum review and response time shall be observed by the Parties. The Parties will request that the Court's preliminary approval of this Agreement be embodied in an Order Granting Preliminary Approval of Class Action and PAGA Settlement.

9.1.1 Plaintiff's motion shall seek an order: 1) Preliminarily approving the Agreement; 2) Approving as to form and content the proposed Notice of Settlement; 3) Directing the mailing of the Notice of Settlement by first class mail to Class Members and Aggrieved Employees; 4) Preliminarily appointing Plaintiff and Class Counsel as representatives of Class Members; 5) Preliminarily approving settlement administration services to be provided by the Claims Administrator; 6) Preliminarily approving the proposed Enhancement Payment to Plaintiff; 7) Preliminarily approving the application for payment of reasonable attorneys' fees and reimbursement of litigation-related expenses to Class Counsel; and 8) Scheduling a fairness hearing on the question of whether the proposed Agreement should be finally approved as fair, reasonable and adequate as to the Class Members.

9.1.2 Defendant shall not oppose Plaintiff's motion for approval of the proposed Agreement.

9.1.3 The Parties shall cooperate with each other and the Claims Administrator during the process of giving Class Members notice and opportunity to object to the Agreement, as necessary and appropriate to assure effective communication to individual Class Members of information about their rights and obligations under this Agreement.

9.2 Final Approval and Fairness Hearing: On a date approved by the Court and set forth in the Notice of Settlement, the Court shall hold the Final Approval and Fairness Hearing where objections, if any, may be heard. Class Counsel shall provide the Court as part of the motion for final approval of the Agreement, a declaration by the Claims Administrator of due diligence and proof of mailing of the Notice of Settlement required to be mailed to Class Members by this Agreement, and of the delivery results of the Claim Administrator's mailings including tracing and re-mailing efforts.

9.2.1 Class Counsel will submit a proposed order and judgment for final approval, which shall include findings and orders: 1) Approving the Agreement, adjudging the terms thereof to be fair, reasonable and adequate, and directing that its terms and provisions be carried out; 2) Approving the

1 payment of an Enhancement Payment to the Class Representative; 3) Approving Class Counsel's
2 application for an award of attorneys' fees and reimbursement of out-of-pocket litigation expenses; 4)
3 Approving the Claims Administrator Costs; and 5) Providing that the Court will retain jurisdiction to
4 oversee administration and enforcement of the terms of the Agreement and the Court's orders.

5 9.2.2 Following entry of the Court's Order granting final approval of the Agreement, the
6 Parties will each act to ensure the fulfillment of all its provisions, including but not limited to the
7 following: 1) Should an appeal be taken from the final approval of the Agreement or motion to set aside
8 the judgement be filed, all parties will support the final approval order on appeal or otherwise; 2) Class
9 Counsel will assist the Claims Administrator as needed or requested in the process of identifying and
10 locating Qualified Claimants and Aggrieved Employees entitled to payments under the Agreement and
11 assuring delivery of such payments; 3) Class Counsel and Defendant's Counsel will cooperate with each
12 other and assist the Claims Administrator as needed or requested in completing the distribution of any
13 residual amounts, as specified above, to the *cy pres* beneficiaries; 4) Class Counsel, in conjunction with
14 the Claims Administrator, will certify to the Court completion of all payments required to be made by this
15 Agreement.

16 9.3 Final Judgment: If the Court approves this Agreement at the final approval and fairness
17 hearing, the Parties will request that the Court enter an Order Granting Final Approval of Class Action
18 and PAGA Settlement and Final Judgment.

19 9.4 Notice to LWDA: Plaintiff agrees to provide notice to the Labor and Workforce
20 Development Agency ("LWDA") of this settlement in accordance with Labor Code § 2699(1)(2).

21 10. MISCELLANEOUS TERMS

22 10.1 Defendant's Right to Withdraw Based on Opt-Outs: If, prior to the Final Approval Date,
23 20% or more of the Class Members have submitted proper and timely requests to opt-out in accordance
24 with the provisions of the Agreement, Defendant may, at its election, rescind the Agreement and all actions
25 taken in its furtherance will be thereby null and void. Defendant must exercise this right of rescission, in
26 writing, to Class Counsel, within seven (7) calendar days after the Claims Administrator notifies the
27 Parties of the total number of opt-outs. If the option to rescind is exercised, then any Claims Administrator
28 Costs shall be paid by Defendant.

1 10.2 Defendant's Estimated Number of Workweeks in the Class Period: Defendant has
2 represented that there are an estimated 10,665 workweeks during the Class Period. In the event the
3 number of workweeks during the Class Period is more than 12,798 (*i.e.*, greater than 20% more than
4 10,665), then the Gross Settlement Amount shall be increased proportionally by the workweeks in
5 excess of 12,798, multiplied by the Class Period per-week value. For example, if it is found that there
6 are actually 13,798 workweeks in the Class Period, or 1,000 workweeks over the threshold, then that
7 1,000 workweeks would be multiplied by the same per workweek valuation (\$240,000.00 divided by
8 10,665, or \$22.50 per workweek) for an increase to the Gross Settlement Amount of \$22,500.00.

9 10.3 Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF
10 THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT
11 OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND
12 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
13 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
14 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
15 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
16 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT
17 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
18 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
19 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
20 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
21 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
22 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
23 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY
24 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
25 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
26 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
27 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
28 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX

1 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED
2 BY THIS AGREEMENT.

3 10.4 No Prior Assignments: The Parties represent, covenant, and warrant that they have not
4 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
5 any person or entity any portion of any liability, claim, demand, action, cause of action or right released
6 and discharged in this Agreement.

7 10.5 Waiver of Appeal and Ability to Opt Out: To the extent permitted by applicable law, by
8 signing this Agreement Defendant is waiving any rights to appeal from the Court's approval of the
9 settlement unless the Court materially modifies the settlement. Furthermore, by signing this Agreement
10 Plaintiff is waiving any right or ability to opt out of this Agreement during the Notice Period or otherwise.

11 10.6 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set
12 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this
13 Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

14 10.7 Judgment and Retention of Jurisdiction to Enforce: Upon the Final Approval Date,
15 judgment will be entered according to this Agreement, with the Court to retain jurisdiction over the parties
16 to enforce the terms therein.

17 10.8 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish
18 and implement the terms of this Agreement. Such cooperation shall include, but not be limited to,
19 execution of such other documents and the taking of such other action as may reasonably be necessary to
20 fulfill the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including
21 all efforts contemplated by this Agreement and any other efforts that may become necessary by Court
22 order, or otherwise, to effectuate this Agreement and the terms set forth herein.

23 10.9 No Admission of Liability: Neither the acceptance nor the performance by Defendant of
24 the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to
25 be, construed as, or deemed to be, an admission by Defendant of the truth of any of the allegations in the
26 Complaint, the representative character of the Action, the validity of any of the claims that were or could
27 have been asserted by Plaintiff and/or Class Members in the Action, or of any liability or guilt of
28 Defendant in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by

Defendant of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Class Members, or any other person, and Defendant specifically disclaim any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Class Members, or any other person. Each of the Parties has entered into this Stipulation with the intention to avoid further disputes and litigation.

10.10 Notices: Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States certified mail, return receipt requested, addressed as follows:

To Plaintiff and the Class:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Shimoda Law Corp.
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624

To Defendant:

Brandon R. McKelvey
Timothy B. Nelson
Douglas R. Leach
Medina McKelvey LLP
925 Highland Pointe Drive, Suite 300
Roseville, CA 95678
Telephone: (916) 960-2211
Facsimile: (916) 742-5488

10.11 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or its counsel participated in the drafting of this Agreement.

10.12 Binding Effect of Agreement: The Parties, by signing this Agreement, are bound by the terms herein. The Parties waive their rights to file an appeal, writ, or any challenge whatsoever to the terms of this Agreement. This Stipulation shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, Claims Administrators, successors, and assigns.

1 10.13 Attorneys' Fees and Costs Limitations: Neither Class Counsel nor any other attorneys
2 acting for, or purporting to act for, the Class, Class Members, or Plaintiff, may recover or seek to recover
3 any amounts for fees, costs, or disbursements from the Releasees or the Gross Settlement Amount except
4 as expressly provided in this Agreement. The Parties stipulate and agree that the San Joaquin County
5 Superior Court shall have continuing jurisdiction to enforce the terms of the Agreement pursuant to Civil
6 Procedure Code section 664.6 and that the prevailing party any action necessary to enforce the terms of
7 the Agreement after default by the other party may recover reasonable attorney's fees and costs related
8 thereto.

9 10.14 No Modifications: This Agreement may be amended or modified only by a written
10 instrument signed by counsel for all Parties or their successors-in-interest. This Agreement may not be
11 discharged except by performance in accordance with its terms.

12 10.15 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and
13 represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement
14 and to take all appropriate action required or permitted to be taken by such Parties pursuant to this
15 Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of
16 this Agreement.

17 10.16 Class Member Signatories: Because the Action has not yet been certified, and the Class
18 Members are so numerous, the Parties agree that it is impossible or impractical to have each Class Member
19 sign this Agreement. It is agreed that, for purposes of seeking approval of the Agreement, this Agreement
20 may be executed on behalf of all Class Members by the Class Representative.

21 10.17 Counterparts: This Agreement shall become effective upon its execution by all of the
22 undersigned. Plaintiff, Class Counsel, Defendant and Defendant's Counsel may execute this Agreement
23 in counterparts, and execution of counterparts shall have the same force and effect as if each had signed
24 the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the same force
25 and effect of originals.

26 10.18 Choice of Law: The Agreement and any exhibits hereto shall be considered to have been
27 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and
28 the rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance

with, and governed by, the substantive laws of the State of California without giving effect to that State's choice of law principles.

10.19 Headings and Captions: Section titles or captions contained in the Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement, or any provision thereof.

10.20 No Retaliation or Discouragement: The Parties agree they will take no action that could be construed as retaliation against any Class Members for participating or seeking to participate in this class action settlement. The Parties will not discourage any class member from participating or seeking to participate in this class action settlement. This is a material term of the Agreement and non-breaching Parties will seek court intervention if this provision is breached. Should non-breaching Party prevail, they shall be entitled to further attorneys' fees and costs.

10.21 Integrated Agreement: This Agreement sets forth the entire understanding between the Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof. Each party acknowledges that there is no representation, inducement, promise or agreement which has been made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the terms of this Agreement are fully understood and voluntarily accepted by the Parties.

10.22 Binding on Successors and Assigns: This Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties to this Agreement, as previously defined.

10.23 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

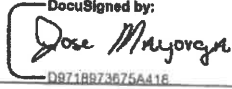
10.24 Waiver of Compliance: No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

10.25 Captions: The captions and section numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

1 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
2 attorneys, as of the day and year herein set forth.

3 **For Plaintiff:**

4 Date: 7/8/2021

DocuSigned by:

D9718973675A416

Jose Mayorga

6
7 **FOR Defendant:**

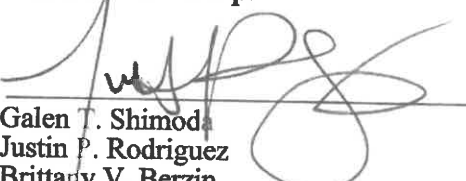
8 Date: _____

9 By:
10 For Brown Strauss, Inc.

11
12
13 APPROVED AS TO FORM

14
15 Dated: 7/8/21

Shimoda Law Corp.

16 By: 

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorneys for Plaintiff and Aggrieved
Employees

17
18 APPROVED AS TO FORM

MEDINA MCKELVEY LLP

19
20
21 Dated: _____

By: _____

Brandon R. McKelvey
Timothy B. Nelson
Douglas R. Leach
Attorneys for Defendant

1 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
2 attorneys, as of the day and year herein set forth.

3 **For Plaintiff:**

4 Date: _____

5 _____
6 Jose Mayorga

7 **FOR Defendant:**

8 Date: 7/11/2021

9 
10 By: _____
11 For Brown Strauss, Inc.

12
13 APPROVED AS TO FORM

Shimoda Law Corp.

14
15 Dated: _____

16 By: _____
17 Galen T. Shimoda
18 Justin P. Rodriguez
19 Brittany V. Berzin
20 Attorneys for Plaintiff and Aggrieved
21 Employees

22 APPROVED AS TO FORM

MEDINA MCKELVEY LLP

23
24 Dated: July 12, 2021

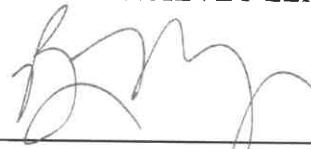
25 
26 By: _____
27 Brandon R. McKelvey
28 Timothy B. Nelson
Douglas R. Leach
Attorneys for Defendant

EXHIBIT 1

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SAN JOAQUIN

JOSE MAYORGA, individually and on behalf of
all other similarly situated employees,

Plaintiff,

vs.

BROWN STRAUSS, INC., a Delaware
Corporation; and DOES 1 to 100, inclusive,

Defendant.

Case No. **STK-CV-UOE-2020-0010906**

CLASS ACTION

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

ATTENTION: All non-exempt employees who have or continue to work for Brown Strauss, Inc. in California from December 28, 2016 to _____ (the "Class Members").

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE OR TO OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

Pursuant to an order from the San Joaquin County Superior Court ("Court") granting preliminary approval of this class action settlement, entered on _____, you are receiving notice of a proposed class action settlement between Plaintiff Jose Mayorga ("Plaintiff" or "Class Representative"), and Defendant Brown Strauss, Inc. ("Defendant") on behalf of Class Members as defined above. You are receiving this notice because Defendant's records indicate you fall within the definition of "Class Member." Defendant's records also indicate that you worked _____ workweeks during the applicable Class Period (as defined below), which means your share of the settlement proceeds is estimated to be _____. Your actual share of the settlement proceeds will vary depending on the total number of Class Members that choose to participate and the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court's order, **YOU ARE HEREBY NOTIFIED AS FOLLOWS:**

I. BACKGROUND OF THE CASE

On December 28, 2020, Plaintiff, a former employee, filed a Complaint against Defendant in the California Superior Court for the County of San Joaquin on behalf of himself and Class Members. The First Amended Complaint was filed April 5, 2021. The term "Action" means this putative class action pending in the Superior Court of California for the County of San Joaquin, Case No. STK-CV-UOE-2020-0010906. The Class Period is December 28, 2016, to _____ (the "Class Period").

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of himself and Class Members. Plaintiff alleged that Defendant violated California law by failing to pay overtime, failing to provide meal periods, failing to provide rest periods, failing to pay final wages, committing wage statement violations, failing to maintain accurate records, failing to provide paid sick leave, violating Labor Code section 558, and failing to pay accrued and unused vacation. Defendant has denied all of Plaintiff's allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide Settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendant continue to deny all allegations and claims. Defendant has entered into this settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Parties have entered into a Joint Stipulation of Regarding Class Action PAGA Settlement and Release ("Agreement"),

which has been preliminarily approved by the Court. The Agreement applies to any and all Class Members as defined above. "Class Member" does not include persons who submit valid request to opt out (as explained below). If you are a Class Member, you have the opportunity to participate in the settlement, or to exclude yourself ("opt out") from the settlement. This notice is to advise you of how you can either participate in the settlement or be excluded from the settlement.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendant agrees to pay a total sum of Two Hundred Forty Thousand Dollars and No Cents (\$240,000.00) ("Gross Settlement Amount"). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed 35% of the Gross Settlement Amount which equals \$84,000.00, attorneys' costs not to exceed \$12,500.00, Claims Administrator Costs estimated not to exceed \$5,000.00, Class Representative's Enhancement Payment of \$5,000.00, any employer side taxes attributable to payments allocated as wages, and \$10,000.00 for alleged PAGA penalties (the "PAGA Payment"), which will result in a "Net Settlement Amount" for distribution to all Class Members. As explained further below, the amount of each Class Member's share of the Net Settlement Amount will depend on the number of weeks worked by participating Class Members during the Class Period. Of the \$10,000.00 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees, which are defined as all non-exempt employees who have or continue to work for Defendant in California from December 23, 2019 to ____.

The number of weeks you worked during the Class Period and your estimated share of the Net Settlement Amount and PAGA Payment ("Claim Amount") is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by participating Class Members, the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees' allocations for the PAGA claims.

B. Claim Amounts and Allocation Between Class Members and Aggrieved Employees

Defendant will pay Claim Amounts through the Claims Administrator, as described below, to each Class Member who does not opt out of the settlement and to Aggrieved Employees. All Claim Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that all Claim Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 2/3 for disputed interest, statutory penalties, and other non-wage damages for which IRS Forms 1099-MISC will issue and 1/3 for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Class Members who do not opt out and Aggrieved Employees will not require the submission of a claim form. Each Class Member's share will be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. Receipt of the Claim Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendant' Records and Resolution of Workweek Disputes

For each Class Member, the amount payable will be calculated by the Claims Administrator from Defendant' records. Defendant' records will be presumed correct unless evidence to the contrary is provided to the Claims Administrator. Defendant' records and any additional evidence will be reviewed by the Claims Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member. If a Class Member disputes the accuracy of Defendant' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than _____. The dispute will be resolved by the Claims Administrator based on the records and evidence provided. The Claims Administrator's decision on all disputes will be final and binding.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class members who do not opt out will be deemed to have released all claims contained in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the operative Complaint, through the Class Period.

Aggrieved Employees will be deemed to have released all claims that were brought under the Private Attorneys General Act, Labor Code § 2698 et seq., based on the facts or claims alleged in the Action during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

The individuals released ("Released Parties") include means Defendant, as well as Defendant's officers, shareholders, directors, agents, employees, attorneys, and insurers.

Class Members can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if Class Members have questions about the released claims and what they mean.

E. Attorneys' Fees and Costs

Defendant has agreed to pay Class Counsel's attorneys' fees and costs to be approved by the Court, up to a maximum of 35% of the Gross Settlement Amount which equals \$84,000.00, and attorneys' costs not to exceed \$12,500.00. Class Counsel's attorneys' fees and costs will be paid and deducted from the Gross Settlement Amount.

F. Reasonableness of Settlement

All attorneys for the Parties to the Action believe the amounts payable to Class Members, Aggrieved Employees, and amounts for attorneys' fees and costs requested are fair and reasonable. The Class Representative and Class Counsel support this Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the inherent risk of trial on the merits, the risk of denial of class certification, and the delays associated with litigation.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement

If you wish to participate in the settlement and believe your workweek information is accurate, **you do not need to take any further action**. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the workweek calculation, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement

If you do not wish to participate in the settlement, you may be excluded (*i.e.*, "opt out") by submitting a timely written request to the Claims Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the settlement, and/or wants to be excluded from this settlement; (c) identify the case name and number (*i.e.* Mayorga v. Brown Strauss, Inc., STK-CV-UOE-2020-0010906); (d) be signed; and (e) be post-marked no later than _____. The request to opt out must be signed, dated and mailed by First Class U.S. Mail or the equivalent, to:

[admin info]

The request to opt out must be postmarked no later than _____. If you submit a request to opt out which is not postmarked by _____, your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. If the request to opt out is sent from within the United States it must be sent through the United States Postal Service by First Class Mail, or the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Claims Administrator, no longer be a Class Member and not received their share of the class settlement payment. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the settlement, you can object to the terms of the Agreement. However, if the Court rejects your objection, you will still be bound by the terms of the Agreement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including any legal analysis and/or supporting documentation; (d) identify the case name and number (i.e. Mayorga v. Brown Strauss, Inc., STK-CV-UOE-2020-0010906) (e) be signed; and (f) be post-marked no later than _____. The objection must be sent to the Claims Administrator at the address identified in section III.B and to counsel for Plaintiff and Defendant at the addresses identified in section IV of this notice.

If you have submitted a written objection as outlined above, you may also appear at the Final Approval Hearing, either in person or through your own attorney, to state your objection. However, you must file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendant. If you appear through your own attorney, you are responsible for paying that attorney.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

After final approval of the settlement has been granted by the Court, each and every Class Member who does not opt out of the settlement and Aggrieved Employee, will release Defendant and the Released Parties from the released claims described above. In other words, if you were employed as a Class Member by Defendant in California during the Class Period, and you do not exclude yourself from the settlement, you will be deemed to have entered into this release and to have released the above-described claims. In addition, you will be barred from ever suing Defendant and the Released Parties with respect to the claims covered by this settlement. If the settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department ___, [address] on _____ at _____ to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs. The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing, unless you wish to object to the settlement.

VI. ADDITIONAL INFORMATION

If you want additional information about this lawsuit and its proceedings, you can contact Class Counsel or Defendant' Counsel as follows:

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On behalf of Plaintiff

Brandon R. McKelvey
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Telephone: (916) 960-2211
Facsimile: (916) 742-5488
On behalf of Defendant

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]

BY ORDER OF THE COURT