

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Settlement Agreement" or "Settlement") is made and entered into by and between Plaintiff Bonifacio Arzate ("Plaintiff"), on behalf of the State of California, and on behalf of similarly aggrieved employees, on the one hand, and Defendant Stephen H. Smith Farms, Inc. ("Smith Farms") and Defendant Stephen H. Smith ("Smith") (collectively "Defendants"), on the other hand. Plaintiff and Defendants are collectively referred to as "the Parties."

This Settlement shall be binding on Plaintiff and the PAGA Members (as defined below) that Plaintiff purports to represent and on Defendants, and their present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendants, subject to the terms and conditions set forth below and the approval of the Court.

I. DEFINITIONS

For the purposes of this Settlement, the terms below have the following meanings:

1. "Action" or "Lawsuit" refers to the civil action filed on April 19, 2021 in the litigation entitled BONIFACIO ARZATE, on behalf of himself and all other aggrieved employees, PLAINTIFF, v. STEPHEN H. SMITH FARMS, INC., a California corporation; STEPHEN H. SMITH, an individual; and DOES 1 through 100, inclusive, DEFENDANTS, Stanislaus County Superior Court, Case No. CV-21-002057.

2. "Aggrieved Employees" or "PAGA Members" are defined as: Plaintiff and all persons who are employed or have been employed as a non-exempt employee by Defendants, in the State of California who worked one or more pay periods between January 27, 2020 and the Effective Date.

3. "Counsel for Defendants" or "Defense Counsel" shall refer to Ronald H. Barsamian, Patrick S. Moody and Faith L. Driscoll of BARSAMIAN & MOODY, A Professional Corporation, who represent Defendants.

4. "Court" refers to the Stanislaus County Superior Court.

5. "Covered Claims" means any and all claims, demands, rights, liabilities, and/or causes of action for PAGA penalties pursuant to Labor Code § 2699, et seq. for violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 516, 551, 552, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198 and 1199 and all applicable Wage Orders, as well as any claims for PAGA penalties that could have been alleged in the Complaint on file in this action.

6. "Covered Period" shall mean the period from January 27, 2020 to the Effective Date.

7. "Eligible Pay Periods" means the total aggregate number of pay periods that each Aggrieved Employee worked for Defendants during the Covered Period.

8. "Effective Date" means the date the Court has signed and entered the Final Judgment (in substantially the form attached as Exhibit "A") as defined below.

9. "LWDA" means the California Labor and Workforce Development Agency.

10. "PAGA" refers to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code §§ 2698, et seq.

11. "Plaintiff" or "PAGA Representative" shall refer to BONIFACIO ARZATE.

12. "PAGA Counsel" shall refer to Hengameh S. Safaei and Rana Nader of PROXY LAW FIRM, LLP, who represent Plaintiff.

13. "Settlement" or "Settlement Agreement" means the terms and conditions as set forth in this Settlement Agreement and Release.

14. "Settlement Administrator" shall refer to ILYM Group, Inc.

II. NATURE OF THE ACTION

15. On January 27, 2021, Plaintiff sent notice to LWDA giving notice of his intent to pursue a representative action pursuant to PAGA, on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees, for Defendants' alleged violation of Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 516, 551, 552, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198 and 1199 and all applicable Wage Orders.

16. Plaintiff received confirmation that the notice to LWDA was electronically served on January 27, 2021.

17. Defendants each received the letter on February 2, 2021.

18. On April 19, 2021, Plaintiff commenced a putative representative action under PAGA for alleged violations of Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 516, 551, 552, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198 and 1199 and all applicable Wage Orders on behalf of himself and other allegedly aggrieved employees by filing the Lawsuit.

20. After the matter was at issue, the Parties began to engage in fact discovery and exchange pertinent information necessary to understand the nature of the allegations and the scope of potential liability. Plaintiff propounded formal discovery, supplemented by a random sample of all employee payroll and timekeeping records. The Parties then reviewed and analyzed the relevant information.

21. The Parties attended formal mediation with Judge Howard Broadman on November 23, 2021, and were able to reach the proposed Settlement.

22. Through the exchange of information and attendant discussions between the Parties, Plaintiff learned that the number of PAGA Members is approximately 1,656 (including Plaintiff) and there are approximately 19,789 Eligible Pay Periods at issue during the Covered Period.

23. PAGA Counsel considered the following facts and arguments in determining that the Settlement was fair and reasonable:

a. Defendants' arguments. Defendants contend that until the Lawsuit was filed, no employees complained about any alleged violation of Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 516, 551, 552, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198 and 1199 and Wage Orders 8-2001 and 14-2001. While Plaintiff maintains that violations under these laws are not curable as this is a specifically defined term of art in the PAGA statute, Plaintiff believed that Defendants may persuasively argue that the Court should exercise its discretion to significantly reduce any penalties under PAGA because it made changes to address any alleged violations when notified.

b. Court's discretion to reduce penalty award. In accordance with PAGA, the Court in a PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner would have, as well as complete discretion to "award a lesser amount than the maximum civil penalty amount specified [by PAGA] if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." (Labor Code § 2699(e)(1) and (e)(2). PAGA Counsel anticipated that, at trial, Counsel for Defendants would make potentially persuasive arguments that: (1) all PAGA Members were properly paid in accordance with Defendants' lawful policies and practices, and that PAGA Members were not required to work off the clock; (2) all PAGA Members were provided with meal and rest break areas in compliance with California law; (3) until this Lawsuit was filed, no employees had complained about any alleged failure to pay any wages or provide compliant meal or rest periods; and (4) none of Defendants' employees suffered any harm from or actual damage as a result of the conduct that forms the basis for Plaintiff's allegations. All of which, Counsel for Defendants would argue, should mitigate in favor of significantly reducing any PAGA penalties. While Plaintiff disagreed that this analysis is legally correct or persuasive, PAGA Counsel had to consider such arguments and how they might impact any potential judgement ultimately awarded to Aggrieved Employees if the Court were persuaded by them.

24. In consideration of the foregoing arguments and the potential risk, PAGA Counsel determined that the Settlement was fair and reasonable.

26. Defendants deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit, deny any liability or wrongdoing for the Covered Claims, and further deny that this action is appropriate for representative treatment for any purpose other than settling this lawsuit. Defendants contend, among other things, that they have complied at all times with the California Labor Code, the related California Wage Orders, and the California Business & Professions Code, all other state and federal wage laws, and further contend that all of its respective employees were and are paid properly and provided compliant meal and rest periods, and that the Lawsuit is without merit. Defendants have denied and continue to deny each and every material factual allegation and alleged claim asserted against them in the Lawsuit, and have further denied and continue to deny that either Plaintiff, the purported PAGA Members, or any other alleged aggrieved employee has been harmed based on the facts alleged in the Lawsuit; that any errors were knowing, intentional, deliberate, or otherwise purposeful; and that Defendants are or can be held liable under any provision of the Labor Code for any penalties associated with such inadvertent omissions.

27. Neither the existence of this Settlement nor anything contained in this Settlement shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants. Nothing set forth in this Agreement shall constitute an admission by Defendants that the Lawsuit was properly brought as a representative action other than for settlement purposes. Settlement of the Lawsuit, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement or the settlement of the Lawsuit: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendants or of the truth of any of the factual allegations in the operative Complaint in the Lawsuit; (b) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; and (c) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment or administration other than for purposes of administering this Settlement.

28. The Parties recognize that the issues presented in the Lawsuit are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.

29. Plaintiff and PAGA Counsel contend that they have diligently pursued an investigation of the PAGA Members' claims against Defendants.

30. Based on their own independent investigations and evaluations, Plaintiff and Defendants and their respective counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interests of the Plaintiff, the PAGA Members, and Defendants in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, PAGA Counsel believes that the settlement amount entered into is in the best interests of the PAGA Members and that the settlement for each PAGA Member is fair, reasonable, and adequate, given the inherent risk of litigation.

31. The purpose of this Settlement is to settle and compromise the Lawsuit and all Covered Claims that Plaintiff and the PAGA Members have against Defendants and the Releasees (as defined below).

III. TERMS OF SETTLEMENT

32. In consideration of the mutual covenants, promises and representations set forth in this Settlement, Plaintiff, on behalf of himself, the State of California and the PAGA Members, and Defendants agree to settle and compromise the Lawsuit and the Covered Claims.

A. The Amount of Settlement

33. As consideration for the settlement described and the release contained in this Settlement Agreement, Defendants agree to pay the total gross amount of Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) ("Settlement Payment"). The Settlement Payment will be allocated as follows:

(a) PAGA Counsel will request Court approval of a 35% fee in the amount of \$105,000.00 and reimbursement of actual costs, but not to exceed \$15,000.00; and

(b) \$7,500.00 litigation enhancement to Plaintiff; and

(c) administration costs of up to \$15,000.00 to be paid to the Settlement Administrator; and

(d) the remainder of the Settlement Payment after deducting the items (a)-(c) (no less than \$157,500.00) shall be designated as "PAGA Penalties" to be split between the LWDA and the PAGA Members as required by Labor Code section 2699(i) with 75% (or no less than \$118,125.00) going to the LWDA and 25% (or no less than \$39,375.00) going to the PAGA Members.

34. Under no circumstances will the total amount of the Settlement Payment exceed \$300,000.00.

B. Allocation and Calculation of the PAGA Penalties

35. Each PAGA Member shall receive a portion of the Settlement Payment on a pro-rata basis. The actual amount paid will be calculated through a two-step process. First, the amount allocated as "PAGA Penalties" will be divided by the total number of Eligible Pay Periods paid by Defendants to all PAGA Members during the Covered Period (the "Work Week Amount") and then the Work Week Amount will be multiplied by the number of Eligible Pay Periods worked by the individual PAGA Member as determined by the Settlement Administrator. The resulting number will be the "Individual Settlement Payment." Second, once the total Individual Settlement Payment is calculated, 75% of the Individual Settlement Payment will be paid to the LWDA as is required by PAGA. The remaining amount, which is 25% of the Individual Settlement Payment, shall be paid to each respective PAGA Member in the form of a payment check ("Individual Settlement Check").

C. PAGA Counsel's Fees and Costs

36. As part of the request for approval of this Settlement, PAGA Counsel will request court approval of 35% of the Settlement Payment, which is \$105,000.00 in attorneys' fees and cost reimbursement of up to \$15,000.00. Any attorneys' fees and costs awarded to PAGA Counsel, referred to as "PAGA Counsel Fees & Costs," shall fully compensate and reimburse PAGA Counsel for any and all of the work already performed in connection with the Lawsuit and all work remaining to be performed in fully and finally resolving the Lawsuit, including but not limited to securing Court approval of the settlement, appearing at hearings, ensuring that the settlement is fairly and properly administered, defending the settlement in any appeal or other post-approval matter, all other work that PAGA Counsel has performed or will perform, and all costs that PAGA Counsel has incurred or will incur.

37. Should PAGA Counsel request a lesser amount for attorneys' fees and costs and/or the court approve a lesser amount, the difference shall be divided among the participating PAGA Members pursuant to the allocation described above.

38. Payment of PAGA Counsel Fees & Costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments.

D. Tax Treatment of Individual Settlement Checks to PAGA Members

39. The Parties agree that Individual Settlement Checks(s) sent to PAGA Members shall be allocated as 100% penalties and Form 1099s will be issued. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that he has obtained no tax advice from Defendants and that neither Defendants nor Counsel for Defendants has made any representation concerning the tax consequences, if any, of the Settlement Amount in this Settlement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be

used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendants are not responsible for any employee tax obligations regarding the allocation of the settlement payments. The Settlement Payment and any Individual Settlement Check paid to Plaintiff and the PAGA Members pursuant to this Settlement is not intended to and does not cause the accrual of wages allocated to any retirement plan(s) or benefit(s).

40. The Settlement Payment and any Individual Settlement Check paid to Plaintiff and the PAGA Members pursuant to this Settlement is not intended to count as earnings by Plaintiff or the PAGA Members.

IV. RELEASE

A. Release By All PAGA Members

41. Upon the approval by the Court of this Settlement, each PAGA Member (including Plaintiff), shall, for the Covered Period, fully release and forever discharge Defendants, and its present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendants (the foregoing are collectively referred to hereafter as the "Releasees") from the Covered Claims.

B. General Release by Named Plaintiff Only.

42. In addition to the release made in Paragraph 41, Plaintiff makes the additional following general release of all claims, known or unknown, except for such claims that cannot be released by law. Plaintiff releases Defendants from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted prior to the final approval of settlement, whether in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection with any act or omission by or on the part of any and all Defendants. (The release set forth in this Paragraph shall be referred to hereinafter as "Plaintiff's General Release.").

With respect to the Plaintiff's General Release, Plaintiff stipulates and agrees that, upon the date of the Order and Judgment, he shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

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

Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other than or different from the facts now believed to be true, Plaintiff's General Release contained herein shall be effective as to all unknown claims. In exchange for the consideration and promises recited in this Agreement, Defendants release and forever discharge Plaintiff, his heirs, executors, family members, agents, attorneys, beneficiaries, administrators, representatives, successors, assigns, and all persons acting in concert and participating with them (collectively, Plaintiff Releasees) from any and all claims, demands, damages, losses, accounts, reckonings, debts, liabilities, agreements, obligations, actions and causes of action of every kind and nature whatsoever, known and unknown, arising from the Action and/or Plaintiff's employment with Defendants.

V. DUTIES OF THE PARTIES PRIOR TO APPROVAL

43. The Parties recognize that, in accordance with Labor Code Section 2699(l)(2), Court approval is required in the event of a settlement of a PAGA action ["The superior court shall review and approve any settlement of any civil action filed pursuant to this part"]. PAGA Counsel shall file with the Court a Notice of Conditional Settlement immediately, pursuant to California Rules of Court, Rule 3.1385. Additionally, Plaintiff shall file either a Joint or Unopposed Motion for Approval of Representative Action Settlement with the Court for the entry of an order approving the PAGA Penalties provided for in this

Settlement ("Motion") and a proposed Final Judgement ("Proposed Final Judgement") (see Exhibit "A") in the amount of \$300,000.00 which requests that the Court: (1) enter judgement in the Lawsuit and permanently bar all Aggrieved Employees from prosecuting any of the Covered Claims released in this Settlement Agreement against Defendants and/or the Releasees; and (2) waive all rights to appeal. Defendants shall assist and cooperate in Plaintiff's efforts to promptly file the Joint or Unopposed Motion for Approval of Representative Action Settlement which shall be filed at the earliest possible date, not to exceed thirty (30) days following the execution of this Agreement.

44. At the same time PAGA Counsel submits the Motion to the Court, they shall also submit a copy of this Agreement to the LWDA pursuant to Labor Code Section 2699, subdivision (l)(2) ("The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court.")

45. The Settlement is contingent upon the approval by the Court. If the Court should fail to approve the PAGA Penalties as agreed upon by the Parties, the Parties shall coordinate efforts to address the Court's questions or concerns and resubmit the Motion if requested or required by the Court. If, after the Parties coordinate their efforts to make a second attempt to obtain approval of the terms of the Settlement, unless the Parties specifically agree to continue with their coordinated efforts to obtain Court approval, (a) the Court fails to approve this Settlement in the form agreed to by the Parties (except for the amount of attorneys' fees or costs requested), or (b) the Court's approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Settlement shall be considered null and void; (ii) neither this Settlement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Settlement, except for the amount of attorneys' fees and costs awarded to PAGA Counsel, shall invalidate this Settlement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

VI. DUTIES AFTER COURT APPROVAL AND ADMINISTRATION OF THE SETTLEMENT

46. Within seven (7) calendar days after the Effective Date, Defendants will compile and send a list of all PAGA Members to the Settlement Administrator containing each PAGA Member's: (1) name; (2) last known mailing address; (3) number of work weeks as a PAGA Member during the Covered Period; and (4) the last four digits of Social Security Number ("PAGA Member List"). The format and transmittal of the list shall be in Excel format and determined by the requirements of the Settlement Administrator.

47. Within three (3) calendar days of receipt of the PAGA Member List, the Settlement Administrator shall send an email to the Parties confirming receipt of the PAGA Member List and indicating the number of PAGA Members and the number of Eligible Pay Periods included in the data.

48. Within fifteen (15) calendar days after the Effective Date, the Settlement Administrator shall run all the addresses provided in the PAGA Member List through the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain current address information.

49. Defendants shall pay the Settlement Payment to the Settlement Administrator within fifteen (15) calendar days after the Effective Date.

50. Within thirty (30) calendar days after the Effective Date, the Settlement Administrator shall mail via U.S. First Class mail each Individual Settlement Check to the last known address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. It will be conclusively presumed that a PAGA Member's Individual Settlement Check was received if the payment check has not been returned within thirty (30) days of the original mailing of the payment check. The date of the initial mailing of the Individual Settlement Check shall be conclusively determined according to the records of the Settlement Administrator. Settlement Administrator shall release the approved PAGA Counsel Fees and Cost to PAGA Counsel on the same day.

51. A letter approved by the Parties in advance of Plaintiff's filing of the Motion explaining this Settlement will be included in the mailing of each PAGA Member's Individual Settlement check. The letter, substantially in the form attached as Exhibit B, will notify all PAGA Members of the binding nature of the

release and the Parties agree that such shall have the same force and effect as if this Settlement were executed by each PAGA Members.

52. The Settlement Administrator shall ensure that 75% of the PAGA Penalties is paid to the LWDA.

53. Settlement checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance. If there are uncashed checks following this period, the Settlement Administrator will ensure that uncashed funds shall be forwarded to the Boys & Girls Clubs of Stanislaus County as a cy pres beneficiary pursuant to C.C.P. § 384.

VII. BEST EFFORTS

54. The Parties agree to use their best efforts to carry out the terms of this settlement.

VIII. PARTIES' AUTHORITY

55. The signatories below represent that they are fully authorized to enter into this Settlement and bind the Parties to the terms and conditions set forth.

IX. MUTUAL FULL COOPERATION

56. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth here. As soon as practicable after execution of this Settlement, PAGA Counsel shall, with the assistance and cooperation of Defendants and its counsel, take all necessary steps to secure the approval of this Settlement from the Court.

X. NO PRIOR ASSIGNMENTS

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

XI. NO ADMISSION

58. Nothing contained in this Settlement Agreement is, nor is the consummation of this Settlement to be construed or deemed, an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the Releasees. Each of the Parties has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. Defendants deny that they have engaged in any unlawful activity, that they have failed to comply with the law in any material respect, or that they have any liability to anyone under the claims asserted in the Lawsuit. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendants.

XII. NON-EVIDENTIARY USE

59. Whether or not the Effective Date occurs, neither this Settlement nor any of its terms nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purposes adverse to Defendants or any other of the Releasees, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Releasees of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Releasees in any further proceeding in the Lawsuit, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this Settlement or for Defendants to establish that an Aggrieved Employee has resolved any of his/her claims released through this Settlement.

XIII. ATTORNEYS' FEES, COSTS AND EXPENSES

60. Except as expressly set forth in this Settlement Agreement, each party shall bear its/his own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by him/it arising out of the Lawsuit, and shall not seek reimbursement thereof from any other party to this Agreement.

XIV. CONSTRUCTION

61. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arms-length negotiations between the Parties and that this Settlement Agreement constitutes the entire agreement between Plaintiff (on behalf of himself, the State of California and all other PAGA Members) and Defendants regarding actual or potential claims asserted by Plaintiff against Releasees. This Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding the Covered Claims or potential claims and the resolution of those claims. Consequently, no other agreement, statement, or promise made by one Party to another as to any matter addressed in this Agreement shall be binding or valid.

XV. CAPTIONS AND INTERPRETATIONS

62. Paragraph titles or captions contained in this Settlement Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision. Each term of this Settlement is contractual.

XVI. MODIFICATION

63. This Settlement Agreement may not be amended, changed, altered, or modified, except in writing and signed by the Parties, or their successors-in-interest. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

XVII. MISCELLANEOUS

64. This Settlement Agreement contains the entire agreement between the Parties relating to the Settlement of the Covered Claims and Plaintiff's Released Claims, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such Party's legal counsel, are merged here. No rights under this Settlement Agreement may be waived except in writing. The Parties have made such investigation of the facts and the law pertaining to the matters described in this Settlement Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters that would alter or change the terms of this Agreement. No representations, warranties, or inducements have been made to any party concerning this Agreement other than those expressly set forth or referred to here.

65. This Settlement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

66. This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

67. This Settlement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart, including facsimile, DocuSign, and scanned copies shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be transmitted electronically (PDF).

68. Upon full execution of this Agreement, the Parties agree that based upon Code of Civil Procedure § 583.310 ("the 5 year rule"), the Lawsuit shall be stayed in its entirety except for the submission of documents needed to obtain approval of the PAGA Penalties provided for in this Settlement. Should the Court fail to grant approval of this Settlement, the stay will be lifted five (5) days

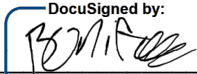
later and the Parties will be restored to their position prior to the Settlement and the Settlement shall be null and void.

69. The Stanislaus County Superior Court shall retain jurisdiction to enforce this Agreement pursuant to California Code of Civil Procedure § 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and PAGA Members, to the fullest extent to enforce and effectuate the terms and intent of this Agreement.

70. This Agreement shall not be subject to collateral attack by any PAGA Member. Such prohibited collateral attack shall include, but not be limited to, claims that the PAGA Member failed, for any reason, to timely receive his or her Individual Settlement Payment.

I HAVE READ THIS ENTIRE SETTLEMENT AGREEMENT. I ACCEPT AND AGREE TO THE PROVISIONS IT CONTAINS, AND HEREBY EXECUTE IT VOLUNTARILY WITH FULL UNDERSTANDING OF ITS CONSEQUENCES.

DATED: 1/12/2022

DocuSigned by:

BONIFACIO ARZATE

DATED:

STEPHEN H. SMITH FARMS, INC.
By: _____
Its: _____

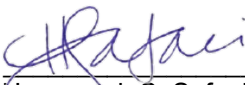
DATED:

STEPHEN H. SMITH

APPROVED AS TO FORM AND CONTENT:

DATED: January 12, 2022

PROXY LAW FIRM, LLP

By: 
Hengameh S. Safaei
Rana Nader
Attorneys for Plaintiff BONIFACIO ARZATE
and PAGA Members

DATED:

BARSAMIAN & MOODY, APC

By: _____
Ronald H. Barsamian
Patrick S. Moody
Faith L. Driscoll
Attorneys for Defendants STEPHEN H.
SMITH FARMS, INC and STEPHEN H.
SMITH

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I HAVE READ THIS ENTIRE SETTLEMENT AGREEMENT. I ACCEPT AND AGREE TO THE PROVISIONS IT CONTAINS, AND HEREBY EXECUTE IT VOLUNTARILY WITH FULL UNDERSTANDING OF ITS CONSEQUENCES.

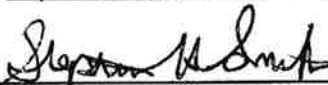
DATED:

BONIFACIO ARZATE

DATED: 01/12/2022


STEPHEN H. SMITH FARMS, INC.
By: Stephen H. Smith
Its: President

DATED: 01/12/2022


STEPHEN H. SMITH

APPROVED AS TO FORM AND CONTENT:

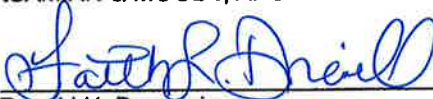
DATED:

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DATED: 1/14/2022

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