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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JOSE CARLOS MARTINEZ, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

R C FURNITURE, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 21STCV00874

*[Assigned for all purposes to the Hon. Kenneth R.
Freeman, Dept. SSC-14]*

**DECLARATION OF SCOTT M.
LIDMAN IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: August 24, 2023
Time: 10:00 a.m.
Dept.: SSC-14

Action Filed: January 7, 2021
Trial Date: None Set

1 I, SCOTT M. LIDMAN, declare as follows:

2 1. I am a shareholder and principal of the law firm Lidman Law, APC, and counsel for the
3 named Plaintiff Jose Carlos Martinez (“Plaintiff”) and the proposed Settlement Class in the above-
4 captioned matter. I am a member in good standing of the bar of the State of California and am admitted
5 to practice in this Court. I have personal knowledge of the facts stated in this declaration and could
6 testify competently to them if called upon to do so.

7 2. I am a 1998 graduate of Santa Clara University School of Law, where I graduated *summa*
8 *cum laude*. During law school, I worked as a summer associate for the international employment law
9 firm of Littler Mendelson, P.C., located in Los Angeles, California.

10 3. Since graduating from law school, my practice has focused exclusively on employment
11 litigation. In September 1998, I began working as an associate attorney at the international law firm of
12 Littler Mendelson P.C., at its Los Angeles office, which according to its website is the largest law firm
13 in the world exclusively devoted to representing management in employment, employee benefits and
14 labor law matters.

15 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day, which
16 was at the time one of the largest international firms in the world. During my employment at Jones
17 Day, I worked exclusively in the labor and employment department. In or around 2003, I went to work
18 at the law firm of Loeb & Loeb, again working exclusively in the Labor & Employment department. In
19 2008, I returned to Littler Mendelson, was promoted to Shareholder in 2009, and from 2008 until the
20 end of 2017, I practiced exclusively labor and employment law, with a strong emphasis and most of my
21 time working on wage and hour class actions venued in both state and federal courts. During that time
22 and my legal career in general, I also worked on a number of single and multi-plaintiff wage and hour
23 matters as well.

24 5. During my employment at Littler Mendelson, I played a significant role in the class
25 actions that I was staffed on, and ran many on my own both as an Of Counsel and as a Shareholder. In
26 particular, I received a wide-array of wage and hour class action experience performing the following
27 types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions from state court
28

1 to federal court; drafting and responding to written discovery; drafting and opposing discovery related
2 motions; arguing discovery related motions; drafting motions to consolidate related matters;
3 interviewing putative class members and obtaining declarations in connection with class certification;
4 drafting oppositions to motions for class certification; drafting motions for decertification following
5 class certification; conducting exposure analyses to assess the strengths and weaknesses of asserted
6 claims, the likelihood of prevailing at class certification and potential damages resulting from such
7 claims; drafting mediation briefs; serving as the primary contact to in-house counsel; deposing named
8 plaintiffs and putative class members; deposing retained expert witnesses; and defending the depositions
9 of corporate witnesses. I also was involved in the negotiations and settlements of many large wage and
10 hour class actions. In short, I played an integral role in all aspects of litigation from the inception of a
11 matter through and beyond class certification. I also supervised the work of several junior attorneys
12 who were staffed on the same wage and hour class actions.

13 6. Although not exhaustive, below is a list of many of the wage and hour class and PAGA
14 actions that I performed substantial work on while I was a shareholder at Littler Mendelson:

- 15 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx, United
16 States District Court, Central District of California, Honorable Gary Klausner,
17 presiding¹.
- 18 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California
19 Superior Court, County of San Bernardino, Honorable Michael Sachs, presiding.
- 20 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California Superior
21 Court, County of Los Angeles, Honorable Mel Red Recana, presiding.
- 22 ► *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California
23 Superior Court, County of Alameda, Honorable Winifred Smith, presiding.
- 24 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-MAN,
25 United States District Court, Central District of California, Honorable Percy
26 Anderson, presiding.

27 ¹ My work on this matter including proceedings not only in District Court, but also work before the United States Court of
28 Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612, California
2 Superior Court, County of Los Angeles, Honorable Elihu Berle, presiding.²
- 3 ► *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United
4 States District Court, Central District of California, Honorable Percy Anderson,
5 presiding.
- 6 ► *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United
7 States District Court, Central District of California, Honorable Percy Anderson,
8 presiding.
- 9 ► *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California
10 Superior Court, County of Los Angeles, Honorable Jane Johnson, presiding.³
- 11 ► *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California
12 Superior Court, County of Orange, Honorable Thierry Patrick Colaw, presiding.
- 13 ► *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-GPC-
14 KSC, United States District Court, Southern District of California.⁴
- 15 ► *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court, County
16 of Solano, Honorable Paul Berman, presiding.
- 17 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC California
18 Superior Court, County of Orange, Honorable William Claster, presiding.
- 19 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC, California
20 Superior Court, County of Orange, Honorable William Claster, presiding.
- 21 ► *Sierra v. Oakley, Inc.*, Case No. 13-cv-00319-AG-JPR, United States District
22 Court, Central District of California, Honorable Andrew Guilford, presiding.⁵
- 23
- 24
- 25

26 ² My work on this matter included proceedings not only in the trial court, but also before the California Courts of Appeal
27 and the California Supreme Court.

28 ³ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

⁴ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

⁵ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

- 1 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
2 States District Court, Central District of California, Honorable Margaret Morrow,
3 presiding.
- 4 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
5 States District Court, Central District of California, Honorable Margaret Morrow,
6 presiding.
- 7 ▶ *Khelghatian v. Comerica Bank, et al.*, Case No. 11-cv-7689-DSF-FFMx, United
8 States District Court, Southern District of California, Honorable John A.
9 Houston, presiding.
- 10 ▶ *Babasa v. Comerica Bank, et al.*, Case No. 11-cv-0595-JAH-BGS, United States
11 District Court, Central District of California, Honorable Margaret Morrow,
12 presiding.
- 13 ▶ *Bernal v. Comerica Bank, et al.*, Case No. 11-cv-01298-JAH-BGS, United States
14 District Court, Central District of California, Honorable Margaret Morrow,
15 presiding.
- 16 ▶ *Khalili v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
17 States District Court, Northern District of California.
- 18 ▶ *Granata v. Comerica Bank, et al.*, Case No. 37-2011-00086316-CU-OE-CTL,
19 California Superior Court, County of San Diego, Honorable Jeffrey B. Barton,
20 presiding.
- 21 ▶ *Mathews v. Comerica Bank, et al.*, Case No. 111CV194781, California Superior
22 Court, County of Santa Clara.
- 23 ▶ *Gallegos v. Comerica Bank, et al.*, Case No. BC455515, California Superior
24 Court, County of Los Angeles, Honorable Terry Green, presiding.
- 25 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior
26 Court, County of San Francisco.

1 ► *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States District
2 Court, Northern District of California, Honorable Richard Seeborg, presiding.

3 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to open my own
4 law firm, Lidman Law, APC, to represent employees with work-related claims, including primarily
5 wage and hour claims and almost exclusively on a class-action basis. I am the President and Shareholder
6 of Lidman Law. Currently, over ninety percent (90%) of my practice is dedicated exclusively to the
7 prosecution of wage and hour class actions, and I am currently responsible for prosecuting over sixty-
8 five (65) wage and hour class actions filed in State courts throughout California, with several of them
9 having been removed to Federal courts. I believe that my professional experience renders me more than
10 qualified to serve as class counsel in this lawsuit involving claims of underpaid overtime and minimum
11 wages, meal and rest period violations, and derivative penalty claims. Not only have I litigated dozens
12 of wage and hour cases throughout my career involving similar claims, including the wage and hour
13 class actions identified above, I have litigated similar claims from both plaintiff and defense
14 perspectives. As a result, I am able to realistically assess and evaluate the facts and legal arguments
15 that can be made in pursuit and defense of similar wage and hour claims, as well as those facts and
16 arguments in support and in opposition to class certification. Consequently, I am able to appreciate the
17 significant risks, uncertainties, and delay involved in wage and hour class action litigation.

18 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.
19 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl
20 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of Los
21 Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case No. 30-
22 2017-00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge
23 William Claster presiding; *Hanke v. C&W Facility Services, Inc.*, Case No. CIVDS1814412,
24 California Superior Court, County of San Bernardino, Honorable Judge David Cohn presiding; *Molina*
25 *v. Mader News, Inc.*, Case No. BC685960, California Superior Court, County of Los Angeles,
26 Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*, Case
27 No. BC688326, California Superior Court, County of Los Angeles, Honorable Judge William F.

Highberger presiding; *Rodriguez v. H.F. Cox, Inc.*, Case No. BC653164, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v. Western Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside, Honorable Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No. BC688477, California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman v. Century Blinds*, Case No. RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Coffee, et al. v. Flyers Transportation Energy, LLC*, Case No. 34-2017-00222084, California Superior Court, County of Sacramento, Honorable Judge Alan G. Perkins presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson presiding; *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al. v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No. 18CV322578, California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; *Acuna v. Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles, Honorable Judge David S. Cunningham presiding; and *Contreras v. Worldwide Flight Services, Inc.*, Case No. 2:18-cv-06036-PSG-SS, United States District Court for the Central District of California, the Honorable Judge Philip S. Gutierrez presiding.

9. As co-lead counsel for Plaintiff Martinez and the proposed Settlement Class, I have been intimately involved in every aspect of this case from its inception through the present, and I believe that the proposed Settlement is a favorable result for the Settlement Class Members under the circumstances presented.

1
2 10. Defendant R C Furniture, Inc. (hereinafter “R C Furniture” or “Defendant”)
3 manufactures and sells furniture, upholstery, and other furniture related accessories. On January 7,
4 2021, Plaintiff filed the instant putative class action complaint. On January 7, 2021, Plaintiff submitted
5 a letter to the California Labor & Workforce Development Agency (“LWDA”) and R C Furniture of
6 his intention of filing a PAGA claim based on the labor code violations as alleged in his complaint. A
7 true and correct copy of Plaintiff’s letter to the LWDA and R C Furniture is attached hereto as **Exhibit**
8 **1**. Thereafter, on May 19, 2021, after exhausting his administrative remedies, Plaintiff filed a First
9 Amended Class and Representative Action Complaint adding a cause of action for civil penalties under
10 the PAGA. Plaintiff’s primary claims/allegations are that R C Furniture: (1) failed to pay all minimum
11 wages owed; (2) failed to pay all overtime wages owed; (3) failed to provide all legally required meal
12 periods; (4) failed to authorize and permit all legally required rest periods; (5) failed to provide
13 accurate, itemized wage statements; (6) failed to timely pay all wages upon termination; (7) engaged
14 in unlawful business practices; and (8) is liable for civil penalties under the Labor Code Private
15 Attorneys General Act of 2004 (“PAGA”).

16 11. Prior to mediation, Plaintiff propounded one set of written discovery including, Special
17 Interrogatories, Requests for Production of Documents, Form Interrogatories, Employment Law and
18 Form Interrogatories, General. In response to Plaintiff’s Requests for Production of Documents, R C
19 Furniture produced over 1,500 pages of information related to Plaintiff’s employment and Defendant’s
20 wage and hour policies and procedures. The Parties also completed the *Belaire-West* opt out privacy
21 notice, and as a result Plaintiff received the contact information for the putative class members that did
22 not opt out of the disclosure.

23 In addition, in advance of mediation, R C Furniture produced timekeeping and payroll data for
24 Plaintiff and 46 other putative class members from 2017 – July 2021, which is an approximate 25%
25 sample. R C Furniture also produced its wage and hour policies and other relevant documents and
26 information relevant to the claims alleged. Accordingly, a sample of this group is representative of the
27 entire Settlement Class and is statistically significant and reliable for purposes of evaluating a potential
28 settlement. In *Tyson*, a case involving a class of employees claiming that they did not receive statutorily

1 mandated overtime pay for time spent “donning and doffing protective gear,” the court upheld the use
2 of statistical evidence to calculate the additional time class members spent donning and doffing, even
3 though differences in the type of gear worn meant that plaintiffs may have taken different amounts of
4 time to don and doff.

5 Here, the statistical analysis of the time punch and payroll data was used for the limited purpose
6 of determining predominance of rounding and meal period violations in support of Plaintiff’s claims
7 that R C Furniture had policies and practices of not paying for all time worked and failed to provide all
8 legally compliant meal periods. Indeed, the time punch data included actual time punches and rounded
9 paid hours, which allowed Plaintiff to conduct a rounding analysis and conclude R C Furniture’s
10 rounding practice was widespread and during the entire relevant time period. Moreover, from the time
11 and payroll data, Plaintiff was able to determine that R C Furniture did not require its employees to
12 record meal periods but rather automatically deducted 30 minutes of work time for purported meal
13 periods. The Settlement Class members worked at the same facility, did similar work, and were paid
14 under the same wage and hour policies. Given these circumstances, the experiences of the 25%
15 sampling, it can be probative as to the experiences of all of the Settlement Class. Further, if all
16 Settlement Class members brought lawsuits for unpaid wages and/or meal period violations, they would
17 rely on timekeeping records similar to the ones in this sampling which also supports a finding that the
18 sampling is statistically reliable.

19 Moreover, R C Furniture also provided a class list for Plaintiff to calculate the necessary metrics,
20 including without limitation, class size, number of workweeks and pay periods. After the detailed
21 review of the documents and data produced by R C Furniture, Class Counsel drew on their extensive
22 experience in similar cases to assess the strengths and weaknesses of Plaintiff’s case. *Id.* This discovery
23 allowed the parties to assess the merits and value of Plaintiff’s claims and R C Furniture’s defenses
24 thereto.

25 12. On August 10, 2022, a mediation was held with Jeffrey Ross, a well-respected wage
26 and hour class action mediator. During mediation, the parties vigorously debated their opposing legal
27 positions, the likelihood of certification of Plaintiff’s claims, and the legal basis for the claims and
28 defenses. Ultimately, through a mediator’s proposal, the Parties agreed on a class-wide resolution. In
the weeks that followed, the parties finalized the terms of settlement and executed the Stipulation of

Settlement (“Settlement”). A true and correct copy of the Settlement is attached hereto as **Exhibit 2**. The proposed Notice Packet is attached as Exhibit A to the Settlement. A true and correct copy of redline comparing the LASC’s model agreement with the Settlement in this matter is attached hereto as **Exhibit 3**.

13. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount (“GSA”):	\$825,000.00
Minus Court-approved attorneys’ fees (update to 1/3 of GSA):	\$275,000.00
Minus Court-approved, verified costs (up to \$25,000.00):	\$25,000.00
Minus Court-approved Class Representative Service Award:	\$10,000.00
Minus Settlement Administration Costs (up to \$20,000):	\$7,750.00
Minus PAGA payment to the LWDA:	\$15,000.00
Net Settlement Amount (“NSA”):	\$492,250.00
Settlement Class Members	197
Average Individual Payment: NSA/Settlement Class	\$2,498.73

Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant’s share of payroll taxes by transmitting the funds to the Administrator no later than 15 calendar days after the Effective Date. *See* Settlement, ¶ 4.3. Effective Date means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur. Settlement, ¶ 1.20.

After deducting amounts for the Court-approved attorneys’ fees and verified costs, Service Award to Plaintiff, Settlement Administrator costs, and the PAGA payment to the LWDA, the

1 Settlement results in a Net Settlement Amount (“NSA”) of at least \$492,250.00 to be paid out to all
2 Settlement Class Members who do not timely opt out.

3 Therefore, this calculation of $\$492,250.00/197 = \$2,524.11$, assumes the Court approves the
4 requested attorneys’ fees, maximum attorneys’ costs, enhancement award, settlement administration
5 costs, and payment to the LWDA. This calculation also assumes that all 187 putative class members
6 participate in the settlement and do not submit timely requests for exclusions.

7 14. According to R C Furniture, there were approximately 197 total Settlement Class
8 Members as of the date of mediation defined as: All current and former non-exempt, hourly employees
9 of Defendant R C Furniture, Inc. who worked at any time in California between January 7, 2017 and
10 the date of preliminary approval.” Thus, the average Individual Class Payment is **\$2,498.73**.

11 The proposed Aggrieved Employees of 180 are defined as “all current and former non-exempt,
12 hourly employees of Defendant R C Furniture, Inc. who worked at any time in California between
13 January 7, 2020 and the date of preliminary approval.” Thus, the average Individual PAGA Payment
14 is projected to be approximately **\$27.78**.

15 15. Settlement Class members’ claims arise from R C Furniture’s common, uniform
16 policies and practices that applied to Settlement Class members during the class period. Specifically,
17 Plaintiff alleged that R C Furniture’s common and uniform policies and practices resulted in the
18 following violations: (1) failure to pay all minimum wages owed; (2) failure to pay all overtime wages
19 owed; (3) failure to provide all legally required meal periods; (4) failure to authorize and permit all
20 legally required rest periods; (5) failure to provide accurate, itemized wage statements; (6) failure to
21 pay all final wages upon separation of employment; (7) engagement in unlawful business practices;
22 and (8) liability for civil penalties under the PAGA.

23 16. As described in the accompanying Motion for Preliminary Approval, Plaintiff alleges
24 that he and Settlement Class Members were not fully compensated for all of their time worked.
25 Specifically, Plaintiff alleges R C Furniture would unlawfully shave their work time and/or round their
26 work time such that they would not be fully paid for all time worked. Plaintiff also alleges that this
27 time shaving and/or rounding practice utilized by R C Furniture was not-even handed over time and
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1 would almost exclusively round and shave in R C Furniture's favor such that the employees were
2 routinely underpaid for their time worked and it appeared on average to be an underpayment of
3 approximately 25 minutes per week. Moreover, for the most recent portion of the relevant time period,
4 Plaintiff contends that R C Furniture required Plaintiff and the other non-exempt employees submit to
5 COVID-19 related temperature checks, that took about 4 minutes per day and was uncompensated.
6 Accordingly, and based on non-exempt employees working in excess of 8.0 hours, Plaintiff calculated
7 a total wage underpayment of approximately \$301,968 ((22,100 workweeks x .42 per workweek x \$24
8 average OT rate) + (10,000 workweeks x .33 per workweek x \$24 average OT rate)).

9 17. R C Furniture contends that it compensated Settlement Class Members for all of their
10 time worked. R C Furniture also contends that its rounding practices were lawful, and any unpaid time
11 for rounding and/or temperature checks was *de minimis* and therefore non-compensable. R C Furniture
12 further asserts that Plaintiff would be unable to certify a rounding class given the individualized
13 inquiries that would be required, and also that R C Furniture's rounding policy/mechanism was,
14 according to it, neutral on its face and in its application. In light of these defenses, Plaintiff discounted
15 the maximum exposure by 40% for the risk of non-certification, and an additional 30% to account for
16 R C Furniture's defenses on the merits, to arrive at an estimated exposure of \$126,826.56.

17 18. Plaintiff alleges that he and Settlement Class Members were not provided with all
18 legally-compliant first meal periods beginning before the end of the fifth hour of work. Specifically,
19 Plaintiff alleges that R C Furniture utilized a bell signaling system for meal periods, with the bell
20 ringing exactly thirty minutes apart. This means that Plaintiff and the other non-exempt employees
21 did not receive a full 30-minute meal period because they were required to be back at their workstations
22 ready to work before the second bell. As such, Plaintiff alleges that he and other non-exempt
23 employees were not provided a full uninterrupted 30-minute meal period because they had to return
24 from their meal periods early and be at their workstations ready to commence work. Moreover, it
25 appears R C Furniture did not require its non-exempt employees to clock in and out for meal periods.
26 Instead, Plaintiff alleges that R C Furniture automatically deducted 30 minutes of work time for
27 purported meal periods whether or not a compliant meal period was actually taken when employees
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1 remained on the work premises. As such, Plaintiff contends that Settlement Class Members
2 experienced at least one meal period violation on every shift in excess of 6.0 hours, which is virtually
3 all of the shifts during the relevant time period. Accordingly, Plaintiff calculated R C Furniture's
4 maximum exposure for the alleged meal period violations at approximately \$1,768,000 (22,100
5 workweeks x 5 shifts/week x \$16.00).

6 19. R C Furniture counters that it has always maintained a lawful meal period policy and
7 provided non-exempt employees with an opportunity to take legally compliant meal periods, and any
8 non-compliant meal periods reflected in employee timekeeping records were solely the result of
9 employee choice, rather than any policy or practice of R C Furniture. R C Furniture points out that it
10 is only required to "provide" the opportunity to take meal periods, not "ensure" meal periods are taken,
11 and that they have always done so. Finally, R C Furniture contends Plaintiff's meal period claim is
12 not suited for class certification, since individual inquiries would be required to assess which
13 employees took non-compliant meal periods, how many meal periods were non-compliant or missed,
14 and the reasons why a particular employee took a non-compliant meal period or missed a meal period
15 during a particular shift. Accordingly, Plaintiff discounted the maximum exposure by 50% for the risk
16 of non-certification, and an additional 45% to account for R C Furniture's defenses on the merits to
17 arrive at an estimated exposure of \$486,200.00.

18 20. Plaintiff alleges that he and Settlement Class Members were also not authorized and
19 permitted to take all required rest periods due to R C Furniture's rest period policies and practices.
20 Specifically, Plaintiff alleges that R C Furniture required its non-exempt employees to remain on the
21 work premises to receive a paid rest period. Thus, Plaintiff alleges that by prohibiting its non-exempt
22 employees from leaving the work premises during rest periods, R C Furniture is failing to relinquish
23 its control in violation of California law. As such, Plaintiff alleges that he and other non-exempt
24 employees experienced at least one rest period violation on every shift worked in excess of 3.5 hours.
25 Therefore, Plaintiff calculated R C Furniture's maximum exposure for the alleged rest period violations
26 at approximately \$1,768,000 (22,100 workweeks x 5 shifts/week x \$16.00).

1 21. R C Furniture contends it has always maintained and enforced lawful rest period
2 policies and practices, and that Settlement Class Members were authorized and permitted to take all
3 off-duty rest periods in compliance with California law. R C Furniture also argues that Plaintiff's rest
4 period claim is without merit because requiring employees to remain on the premises is not unlawful,
5 and the claim is otherwise inherently unsuited for class treatment as it requires an individualized
6 inquiry into whether each Settlement Class Member was in fact authorized and permitted to take a
7 compliant rest period, which would devolve into an unmanageable series of mini-trials. Accordingly,
8 Plaintiff discounted the maximum exposure by 50% for the risk of non-certification, and an additional
9 55% to account for calculated R C Furniture's defenses on the merits to arrive at an estimated exposure
10 of \$397,800.00.

11 22. Plaintiff further alleges that R C Furniture issued inaccurate wage statements in
12 violation of Labor Code § 226 as a result of the alleged unpaid minimum wages and overtime wages,
13 and meal and rest period premium wages described above. Specifically, Plaintiff contends that this
14 conduct violated Labor Code § 226(a) because the wage statements issued to Settlement Class
15 Members did not include all hours worked and the rate at which they were being paid. Plaintiff's data
16 analysis reflected that there were approximately 13,545 wage statements issued during the relevant
17 time period. Therefore, Plaintiff calculated R C Furniture's maximum exposure for wage statement
18 violations at approximately \$1,350,250 (($\50.00×85 current employees) + ($\$100.00 \times 13,460$
19 subsequent wage statements)).

20 23. R C Furniture argues that meal and rest period claims cannot support a claim for wage
21 statement penalties. R C Furniture further argues that its alleged wage statement violations could not
22 be shown to be "knowing and intentional," and that Plaintiff cannot show that he or any other employee
23 "suffer[ed] injury" as a result of the alleged wage statement violations, as required by Lab. Code §
24 226(e) for imposition of penalties. As such, Plaintiff discounted the calculated exposure by 45% for a
25 risk of non-certification and an additional 55% for a risk of being unsuccessful on the merits, to arrive
26 at an estimated total of \$334,186.88.

1 24. Plaintiff alleges that R C Furniture is also liable for waiting time penalties under Labor
2 Code section 203 as a result of its failure to timely pay all wages upon separation. There are
3 approximately 69 Settlement Class Members who have separated their employment with R C Furniture
4 during the relevant time period who could be entitled to waiting time penalties. Therefore, Plaintiff
5 calculated R C Furniture's maximum exposure for waiting time penalties at approximately \$880,250
6 (69 former employees x \$16/hour x 30 days x 8 hours/day).

7 25. R C Furniture asserts it has strong defenses to the waiting time claim because there exist
8 good-faith disputes as to Plaintiff's underlying claims, precluding imposition of penalties.
9 Accordingly, Plaintiff discounted the maximum exposure by 45% for the risk of non-certification, and
10 an additional 40% to account for R C Furniture's defenses on the merits, to arrive at an estimated
11 exposure of \$290,482.50.

12 26. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged
13 Labor Code violations. Plaintiff calculated R C Furniture's maximum exposure at \$1,354,500 (13,545
14 pay periods x \$100 initial violation rate).

15 27. R C Furniture argues that Plaintiff's PAGA claim will fail for the same reasons that his
16 underlying claims will fail. R C Furniture also maintains that, given its good faith defenses, this Court
17 would exercise its discretion to substantially reduce any PAGA penalties if it were to find R C Furniture
18 liable for any of Plaintiff's claims. Therefore, Plaintiff discounted the maximum exposure figure by
19 50% for a risk of being unsuccessful on the merits, and an additional 45% to account for the possibility
20 of this Court reducing penalties, to arrive at an estimated exposure of \$372,487.50.

21 28. Using these estimated figures for each of the claims described above, Plaintiff predicted
22 the realistic total recovery for the Settlement Class would be approximately \$2,007,983.44. The
23 proposed settlement of \$825,000.00 therefore represents approximately 41% of the reasonably
24 forecasted recovery for the Settlement Class. Preliminary approval is appropriate as the settlement will
25 provide tangible monetary relief to Settlement Class Members, and will still provide an average recovery
26 to Settlement Class Members of **nearly \$2,500.00.**

1 29. Here, Class Counsel will also apply for an attorneys' fees award of one-third of the
2 GSA, which is currently estimated to be \$275,000.00, and up to \$25,000.00 in verified costs
3 reimbursement. Class Counsel has incurred substantial attorney fees conducting pre-filing
4 investigation, analyzing Plaintiff's claims, conducting legal research, propounding formal written
5 discovery, participating in the *Belaire-West* notice process, analyzing timekeeping data and payroll
6 records, preparing for and attending mediation, negotiating and revising the long-form Settlement,
7 preparing this Motion, and otherwise litigating the case. Class Counsel expect to expend additional
8 attorney time in attending the hearing on this Motion, overseeing the Notice process and fielding
9 questions from Settlement Class Members, preparing the final approval papers and attending the Final
10 Approval hearing.

11 30. Plaintiff has provided written approval of the split of attorneys' fees in this action.

12 31. Plaintiff will seek a service award of \$10,000.00 at the time of seeking final approval,
13 and I believe this is reasonable given Plaintiff's efforts in this case and the risks he undertook on behalf
14 of the Settlement Class members, including the risk that he could be liable for R C Furniture's costs if
15 this case was unsuccessful. Plaintiff was integral in the prosecution of this action, by, among other
16 things, providing substantial factual information and documents to Class Counsel, attending multiple
17 meetings with Class Counsel to discuss the claims and theories at issue in the litigation, and otherwise
18 actively participating in the prosecution of their claims.

19 32. Although the parties engaged in informal discovery throughout this action, the parties
20 still had significant discovery to complete in formal litigation had the matter not settled. Moreover,
21 Plaintiff still had to file for class certification, and faced the prospect of appeals in the wake of a
22 disputed class certification ruling for Plaintiff and/or an adverse summary judgment ruling. Even if
23 the classes sought to be certified by Plaintiff were in fact certified, the parties would incur considerably
24 more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal.
25 This Settlement avoids those risks and the accompanying expense.

33. I do not have any conflicts of interest with the class. I have also made reasonable inquiry of other members of my firm and my co-counsel's firm, Haines Law Group, APC, and no one have any conflicts of interest with the class.

34. Plaintiff will serve the Motion for Preliminary Approval and proposed Settlement Agreement on the LWDA on the same date he files his Motion for Preliminary Approval.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 2, 2023 at El Segundo, California.


Scott M. Lidman

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

January 7, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

R C FURNITURE, INC.
c/o Rene Cazares, Agent for Service of Process
1111 Jellick Avenue
City of Industry, CA 91748

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

R C FURNITURE, INC.
1111 Jellick Avenue
City of Industry, CA 91748

Re: *Jose Carlos Martinez v. R C Furniture, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jose Carlos Martinez in claims arising from his employment with R C Furniture, Inc., a California corporation (“Defendant”). Mr. Martinez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former hourly-paid employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the present date.

Mr. Martinez, a former non-exempt employee, was employed by Defendant from approximately March 9, 2020 through in or around late November/early December 2020. During his employment, Mr. Martinez performed various job duties, including without limitation, carpenter-related duties and assembly of tables and couches at Defendant’s location in City of Industry, California.

During his employment with Defendant, Mr. Martinez was generally scheduled to work from 6:00 a.m. to 2:30 p.m. Monday through Friday. He also was often scheduled to work on Saturdays. Then during approximately the last five months of his employment with Defendant, Mr. Martinez was scheduled to work 10:00 a.m. to 6:30 p.m. Monday through Friday. Defendant required Mr. Martinez to clock in and out by swiping a card into a timekeeping system to keep track and record his work time.

During his employment with Defendant, Defendant would keep track of Mr. Martinez’s time worked and would unlawfully shave his work time and/or round his work time such that Mr. Martinez would not be fully paid for all time worked. Specifically, Mr. Martinez was required to and would clock in three to five minutes before his scheduled start time to being to prepare for work. However, Defendant’s would not pay Mr. Martinez for this time and would not begin compensating Mr. Martinez

until his scheduled start time. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant's favor such that Mr. Martinez was routinely unpaid for his time worked. As a result, Defendant failed to pay Mr. Martinez all required minimum and overtime wages.

Additionally, in connection with the COVID-19 pandemic, during the most recent portion of Mr. Martinez's employment with Defendant, Defendant required Mr. Martinez and their other non-exempt employees to be subjected to temperature checks before they were allowed to clock in and commence work. Despite being under Defendant's direction and control and being required to undergo the temperature checks for the benefit of Defendant, Defendant would not compensate Mr. Martinez or the other employees for this time. Further, if Defendant deemed Mr. Martinez's temperature to high, they would instruct him to go sit under a tree outside and wait for approximately 10 minutes before he would be required to return for another temperature check before being allowed to clock in and commence work. Mr. Martinez was also not paid for this time despite being under Defendant's direction and control. As a result, Defendant failed to pay Mr. Martinez all required minimum and overtime wages.

Throughout Mr. Martinez's employment with Defendant, Mr. Martinez was not provided all required meal periods due to Defendant's meal period policies/practices which fail to provide uninterrupted, duty-free 30-minute meal periods prior to the start of the fifth hour of work. Specifically, Defendant had a policy/practice of notifying Mr. Martinez and other non-exempt employees of the time to take a meal period by ringing a bell to signal the commencement of the meal period. When Mr. Martinez began work at 6:00 a.m., the lunch bell would ring at 10:30 a.m. to alert employees to the start of the meal period. Then a second bell would ring two to three minutes before the end of the thirty-minute meal period, to alert Mr. Martinez to return back to his work station. A third bell then rang at exactly the thirty-minute mark and Defendant had a policy of requiring Mr. Martinez and their other non-exempt employees to be at their work stations ready to re-commence work by the time the third bell rang. As such, Defendant provided short or otherwise unlawful meal periods to Mr. Martinez and their non-exempt employees because they would be required to cut their 30 minutes short in order to be back at their works stations ready to commence work.

Further, Defendant did not require Mr. Martinez and the other non-exempt employees to clock in and out for their meal periods if they remained on the premises. Therefore, despite Defendant's failure to keep any records of Mr. Martinez's meal periods when he remained on the work premises, Mr. Martinez is informed and believes that Defendant unlawfully and automatically deducted thirty minutes from Mr. Martinez's work time each shift for a purported meal period regardless of whether or not a meal period was taken and regardless of whether the meal period, if taken, was less than 30 minutes in length. As a result, Defendant failed to pay Mr. Martinez and other non-exempt employees all of their minimum and overtime wages owed.

Although Mr. Martinez was not provided with all legally-compliant meal periods to which he was entitled, Defendant failed to compensate Mr. Martinez with the required meal period premium for each workday in which he experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and belief during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for the payment of meal period premium payments under Labor Code § 226.7 in the event that a legally compliant meal period was not provided to Martinez and their non-exempt employees.

Mr. Martinez was also not authorized and permitted to take all legally required and compliant rest periods due to Defendant's rest period policies and practices. Specifically, Defendant also utilized the aforementioned bell system to signify the start and stop of a rest period and required employees to be working by the time the second bell would ring at the 10-minute mark. Thus, Defendant's rest period policies and practices did not authorize and permit Mr. Martinez and the other non-exempt employees a net ten-minute rest period for every four hours worked, or *major fraction thereof*. Additionally, Defendant mandated that any employee who wanted to leave the premises during their rest periods would have to clock out and not be paid for such time. Thus, in essence, in order to be paid for rest periods (as required by law), Mr. Martinez and the other non-exempt employees essentially were required to remain on the premises during their rest periods. Because Defendant's rest period policy or practice requires employees to remain on the work premises during rest periods, Defendant's rest period policy fails to relinquish control over how employees spend their time during rest periods in violation of California law.

On those occasions when Mr. Martinez was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendant failed to compensate Mr. Martinez with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for the payment of rest period premium payments under Labor Code § 226.7 in the event that a legally compliant rest period was not provided to their non-exempt employees.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Martinez.

As a further result of Defendant's failure to pay all minimum and overtime wages and meal and rest period premium wages, Defendant failed to pay all wages owed to Mr. Martinez upon his termination of employment with Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Mr. Martinez and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. Mr. Bravo and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Defendant caused Mr. Martinez and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Martinez and other aggrieved employees at least minimum wages for all such hours, due to Defendant's unlawful timekeeping practices of rounding and/or shaving Mr. Martinez's time worked. Additionally, Defendant did not compensate Mr. Martinez and other aggrieved employees for the time related to the temperature checks prior to clock in. These practices by Defendant resulted in Defendant not paying Mr. Martinez for all wages owed for the work he performed, including failing to pay him all required minimum wages.

Overtime Violations

Defendant was required to pay Mr. Martinez and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.” This Section further provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked. As explained above, Defendant had a policy/practice of shaving Mr. Martinez’s work time and/or rounding Mr. Martinez’s work time such that he was not fully paid for all time worked. Additionally, Defendant did not compensate Mr. Martinez and other aggrieved employees for the time related to the temperature checks prior to clock in. As a result of these policies/practices, Mr. Martinez and other aggrieved employees were not compensated for all overtime wages on occasions when they worked over eight hours in a workday and/or 40 hours in a workweek.

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Martinez and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, as a result of the bell signaling system utilized by Defendant, Defendant provided late, short, or otherwise unlawful meal periods to Mr. Martinez and its non-exempt employees. As a result, Mr. Bravo and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Mr. Martinez was not provided with all legally-compliant meal periods to which he was entitled, Defendant failed to compensate Mr. Martinez and other aggrieved employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Martinez and other aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 1, § 12. Specifically, Defendant’s required Mr. Martinez and other non-exempt employees to remain on the work premises during their rest periods, resulting in Defendant failing to relinquish control over how employees spend their time during rest periods in violation of California law. Further, Defendant’s bell system resulted in rest periods of less than the required net ten minutes. As a result, Mr. Martinez and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”)

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Martinez and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total gross wages earned, total net wages earned, and meal and rest period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Mr. Martinez and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, and unpaid meal period and premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Martinez and other aggrieved employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Mr. Martinez and other aggrieved employees was willful and, consequently, entitles Mr. Martinez and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

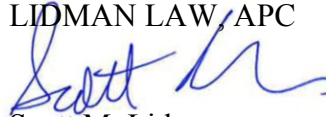
As an "aggrieved employee," Mr. Martinez will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Martinez's own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Martinez and other aggrieved employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Martinez and other aggrieved employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Martinez and other aggrieved employees;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Martinez and other aggrieved employees;
- e) Defendant violated Labor Code § 226 by failing to furnish Mr. Martinez and other aggrieved employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Mr. Martinez and other aggrieved employees all earned wages at least twice during each calendar month;

- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Martinez and other aggrieved employees; and
- h) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Martinez and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 2

EXHIBIT 2

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Jose Carlos Martinez (“Plaintiff”) and defendant RC Furniture, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Action” collectively means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned: (1) *Martinez v. RC Furniture, Inc.*, Case No. 21 STCV00874, initiated on January 7, 2021 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Operative Complaint” means Plaintiff’s First Amended Complaint, filed in the Los Angeles County Superior Court on May 19, 2021.
- 1.3. “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.4. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.5. “Aggrieved Employees” means all individuals who were employed by Defendant in California and classified as hourly, non-exempt employees at any time during the PAGA Period.
- 1.6. “Class” means all individuals who were employed by Defendant in California and classified as hourly, non-exempt employees at any time during the Class Period.
- 1.7. “Class Counsel” and/or “PAGA Counsel” means Scott M. Lidman, Elizabeth Nguyen and Milan Moore of Lidman Law, APC, and Paul K. Haines of Haines Law Group, APC.
- 1.8. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the

Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

- 1.9. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Class Period Workweeks and PAGA Pay Periods.
- 1.10. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.11. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.
- 1.12. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a Spanish translation, in the form, without material variation, attached hereto as Exhibit A and incorporated by reference into this Agreement.
- 1.13. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.14. “Class Period” means the period of time from January 7, 2017 through November 7, 2022.
- 1.15. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.16. “Class Representative Service Payment” means the service payment made to the Plaintiff as Class Representative in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiff.
- 1.17. “Court” means the Superior Court of California, County of Los Angeles.
- 1.18. “Defendant” means RC Furniture, Inc.

- 1.19. "Defense Counsel means Roger Mansukhani, George P. Soares, and Darin R. Webb of Gordon Rees Scully Mansukhani, LLP.
- 1.20. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.21. "Final Approval" means the Court's order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.22. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.23. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement
- 1.24. "Gross Settlement Amount" means Eight Hundred Twenty-Five Thousand Dollars and Zero Cents (\$825,000.00) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
- 1.25. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.26. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

- 1.27. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.28. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.29. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.30. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.31. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.32. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.33. “PAGA Period” means the period of time from January 7, 2020 through November 7, 2022.
- 1.34. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.35. “PAGA Notice” means the Plaintiff’s January 7, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.36. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000) and the 75% to LWDA (\$15,000) in settlement of PAGA claims.
- 1.37. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.38. “Plaintiff” means Jose Carlos Martinez, the named plaintiff in the Action.
- 1.39. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.

- 1.40. “Released Class Claims” means all class claims and/or causes of action pled or could have been pled based on the factual allegations contained in the Operative Complaint or Plaintiff’s Class Action which occurred during the Class Period, including all claims for: (i) failure to pay minimum wages; (ii) failure to pay overtime wages; (iii) failure to provide meal periods; (iv) failure to authorize and permit rest periods; (v) failure to provide accurate, itemized wage statements; (vi) failure to timely pay all wages upon termination; and (vii) all claims for unfair competition arising from (i) through (vi) above. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, and expressly exclude all other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or class claims based on facts occurring outside the Class Period.
- 1.41. “Released PAGA Claims” means all PAGA claims pled or could have been pled based on the factual allegations contained in the Operative Complaint and/or PAGA letters sent by Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees. The Released PAGA Claims do not include, and expressly exclude, other PAGA claims, underlying wage and hour claims, claims for vested benefits, wrongful termination, discrimination, unemployment insurance, disability, social security, worker’s compensation, and PAGA claims outside of the PAGA Period.
- 1.42. “Released Parties” means: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.
- 1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.44. “Response Deadline” means 45 calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.45. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.
- 1.46. “Workweek” means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

2. RECITALS

Plaintiff's Class Action

- 2.1. On January 7, 2021, Plaintiff commenced this Action by filing a Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles ("Plaintiff's Class Action"). Plaintiff's Complaint asserted claims that Defendant:
- (a) Violated California Business and Professions Code § 17200 *et seq.*;
 - (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1
 - (c) Failed to pay overtime wages in violation of California Labor Code § 510, *et seq.*;
 - (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226; and.
 - (g) Failed to timely pay all wages upon termination in violation of California Labor Code §§201-203;
- 2.2. On May 19, 2021, Plaintiff filed a First Amended Complaint adding a cause of action under the California Private Attorney General Act, Labor Code §2698 *et seq.* based on the same factual allegations as the underlying Labor Code claims asserted in the original Complaint.
- 2.3. On June 22, 2021, Defendant filed an Answer to Plaintiff's First Amended Complaint asserting Fifty-Eight (58) affirmative defenses.
- 2.4. Defendant denies the allegations in the Operative Complaint and Plaintiff's Action, denies any failure to comply with the laws identified in in Operative Complaint and Plaintiff's Action and denies any and all liability for the causes of action alleged.

Mediation and Settlement

- 2.5. On August 10, 2022, the Parties participated in an all-day mediation presided over by Jeffrey Ross, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator's proposal. This Agreement memorializes the terms of that proposal.
- 2.6. Prior to mediation, Plaintiff obtained through both formal and informal discovery sufficient documents and information to sufficiently investigate the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth

in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”). These documents included Defendant’s wage and hour policies as well as time and payroll records for the putative class members.

- 2.7. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant’s defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to any and all of the claims in the Action.
- 2.8. The Court has not granted class certification insofar as the case mediated and settled prior to Plaintiff filing a motion for class certification.
- 2.9. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$825,000.00 and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.
- (a) To Plaintiff: In addition to the individual settlement to Plaintiff addressed below at paragraph 6.1(b), Plaintiff will apply to the Court for a Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant

will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3), which is currently estimated to be \$275,000, and a Class Counsel Litigation Expenses Payment of not more than \$25,000. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.
- (c) To the Administrator: An Administrator Expenses Payment not to exceed \$20,000, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$20,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000 to be paid from the Gross Settlement Amount, with 75% (\$15,000) allocated to the LWDA PAGA Payment and 25% (\$5,000) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by

each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

- ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- i. Tax Allocation of Individual Class Payments. 50% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 50% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
 - ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

4. SETTLEMENT FUNDING

- 4.1. Class and PAGA Figures and Workweeks. Based on its records, Defendant has represented that the Class consists of 197 Class Members who collectively worked a total of 22,100 Workweeks. Further, Defendant has represented that there are a total of 180 Aggrieved Employees who worked a total of 13,545 PAGA Period Workweeks.
- 4.2. Class Data. Not later than 15 calendar days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify

Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 15 calendar days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within 14 calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date, which is 180 days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 180 days after its last mailing to the affected individual, the Settlement Administrator will also send the individual a notice informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.
- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to

the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

5.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).]. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

5.5. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement, and shall not reduce such contributions or bonuses.

6. RELEASE OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:

6.1. Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or could have been, alleged, based on the facts contained, in the Operative Complaint, Plaintiff's Class Action and/or Plaintiff's PAGA Action and (b) all PAGA claims that were, or could have been, alleged based on facts contained in the Operative Complaint and/or Plaintiff's PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

(a) Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff's Release herein above and Plaintiff's release of other claims herein below,

Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

- 6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.
- 6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all of the Released PAGA Claims.
- 6.4. Release by PAGA Counsel. Except as otherwise provided in this Agreement, Class Counsel release on behalf of themselves, and their employees, agents, successors and assigns, the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.
7. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s procedures and instructions.
- 7.1. Defendant’s Responsibilities. Within 14 calendar days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. In this Declaration, Defendant shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.
- 7.2. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching

its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement

7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 60 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

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

8. SETTLEMENT ADMINISTRATION

8.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator’s duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing

the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

8.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

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

8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than 14 calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than 7 calendar days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained.

The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

- (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

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

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do

so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly

Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- (e) Administrator’s Declaration. Not later than 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- (f) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE. Based on its records, Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 8.1 above. Should the number of workweeks identified in paragraph 4.1 above increase by more than 10% during the Class Period, the Defendant will have the option to either: (a) increase the gross settlement proportionally, or (b) shorten the release period to the date on which the number of workweeks reaches 10% above the total set forth in paragraph 4.1 above, so that there is no increase in the gross settlement amount.

10. DEFENDANT’S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all

Settlement Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 calendar days after the Administrator sends the final Exclusion List to Defense Counsel. Withdrawal shall be by written notice to Class Counsel (email will suffice). Invalid Requests for Exclusion will have no effect on this threshold for an election. The Parties and their Counsel agree not to take any action to encourage any Class Members to opt-out of and/or object to the Settlement.

11. MOTION FOR FINAL APPROVAL. Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

11.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for a Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

11.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

11.4. Waiver of the Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate

proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

13. ADDITIONAL PROVISIONS

13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

13.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of

Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of Mediator Krivis for resolution.

- 13.7. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant.
- 13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement

falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter

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

To Plaintiff and the Class:

Scott M. Lidman
Elizabeth Nguyen
Milan Moore
Lidman Law, APC
2155 Campus Drive Suite 150
El Segundo, CA 90245
Tel.: (424) 322-4772
Fax: (424) 322-4775
E-Mail: slidman@lidmanlaw.com
enguyen@lidmanlaw.com
mmoore@lidmanlaw.com

and

Paul K. Haines
Haines Law Group, APC
2155 Campus Drive Suite 180
El Segundo, CA 90245
Tel.: (424) 292-2350
Fax: (424) 292-2355
E-Mail: phaines@haineslawgroup.com

To Defendant:

Roger M. Mansukhani
George P. Soares
Darin R. Webb
Gordon Rees Scully Mansukhani, LLP
101 W. Broadway, Suite 2000
San Diego, CA 92101
Telephone: (619) 230-7447
Facsimile: (619) 696-7124
E-Mail: rmansukhani@grsm.com

gsoares@grsm.com
dwebb@grsm.com

13.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

13.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for a period of not less than one (1) year starting from the date of signing the Memorandum of Understanding until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 1-30-2023 
Plaintiff Jose Carlos Martinez

Dated: 1-24-23  [name]
For Defendant RC Furniture, Inc.

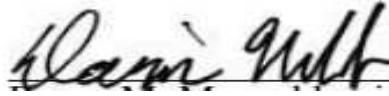
Dated: February 2, 2023 
Scott Lidman
Lidman Law, APC
Attorney for Plaintiff

Dated: February 2, 2023



Paul K. Haines
Haines Law Group, APC
Attorney for Plaintiff

Dated: 1/25/2023



Roger M. Mansukhani
George P. Soares
Darin R. Webb
Gordon Rees Scully Mansukhani, LLP
Attorney for Defendant

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR FINAL COURT
APPROVAL]

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

(
Martinez v. RC Furniture, Superior Court of the State of California,
County of Los Angeles Case No. 21STCV00874)

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against RC Furniture, Inc. (“Defendant”) for alleged wage and hour violations. The Action was filed by a former employee of Defendant, Jose Carlos Martinez

_____ (“Plaintiff”) and asserts claims on behalf of a class of hourly, non-exempt employees who worked for Defendant during the Class Period (January 7, 2017 to November 7, 2022) (“Class Members”), as follows: (i) unfair competition; (ii) failure to pay minimum wages; (iii) failure to pay overtime wages; (iv) failure to provide meal and/or rest breaks; (v) failure to provide accurate, itemized wage statements; and (vi) failure to timely provide wages upon termination. The action also seeks penalties under the California Private Attorney General Act (“PAGA”) for all person employed by Defendant in California and classified as an hourly, non-exempt employee who worked for Defendant during the PAGA Period (January 7, 2020 to November 7, 2022 (“Aggrieved Employees”).

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

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_ (less tax withholdings). Your estimated Individual PAGA Payment is estimated to be \$_____**. The actual amounts you may receive likely will be different and will depend on a number of factors.

The above estimates are based on Defendant’s records showing that **you worked __ workweeks** during the Class Period and you worked __ Pay Periods during the PAGA Period. If you believe that you worked more workweeks during these periods, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have

two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment. In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue the PAGA Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks Written Challenges Must be Submitted by	The amounts of your Individual Class Payment and PAGA Payment (if applicable) depends on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with this number, you must challenge it by [insert deadline] _____ . See Section 4 of this Notice.
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1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by (i) engaging in unfair competition; (ii) failing to pay minimum wages; (iii) failing to pay overtime wages; (iv) failing to provide meal and/or rest breaks; (v) failing to provide accurate, itemized wage statements; (vi) failing to timely provide wages upon termination. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: Paul K. Haines of Haines Las Group, APC and Scott M. Lidman, Elizabeth Nguyen and Milan Moore of Lidman Law, APC (“Class Counsel”).

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator

in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

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

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

1. Defendant Will Pay \$825,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, the Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 15 days after the Effective Date. The “Effective Date” is the date the Judgment is entered, or if there are objections or any appeal, the date the Judgment is no longer subject to appeal. Fourteen (14) days after the settlement is funded, the Administrator

will mail checks for the Individual Class Payments to Participating Class Members.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$275,000.00 (1/3rd of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$7,750.00 to the Administrator for services administering the Settlement.
 - D. Up to \$20,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 50% of each Individual Class Payment to taxable wages ("Wage Portion") and 50% to penalties and interest. ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Administrator will report the Non-Wage Portions of the Individual Class Payments and the Individual PAGA Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual

Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

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

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

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement.
The Administrator's contact information is contained in Section 9 of this Notice.
9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages and/or penalties based on the Class Period facts and PAGA penalties based on the PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

All Participating Class Members, on behalf of themselves and their respective

former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint including, but not limited to, all claims for: (i) failure to pay minimum wages; (ii) failure to pay overtime wages; (iii) failure to provide meal and/or rest breaks; (iv) failure to provide accurate, itemized wage statements; (v) failure to timely provide wages upon termination; and (vi) claims for unfair competition arising from (i) through (v). Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

The "Released Parties" are Defendant and each of its former and present officers, directors, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendants have paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees (including Non-Participating Class Members) will be barred from asserting PAGA claims against Defendants, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 by the total number of PAGA Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Periods worked by each individual Aggrieved Employee.
3. Workweek Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until [insert response deadline] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not

be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out), including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment (if applicable).

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator

will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Martinez v. RC Furniture, Inc.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [insert response deadline], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

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

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [\[insert date and time of hearing\]](#) in Department SSC-14 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either

Personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [[insert static website address](#)] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Phoenix Settlement Administrators' website at [[insert static website address](#)]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV00874. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

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Elizabeth Nguyen
Milan Moore
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Fax: (424) 322-4775
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and

Paul K. Haines
Haines Law Group, APC
2155 Campus Drive Suite 180
El Segundo, CA 90245
Tel.: (424) 292-2350
Fax: (424) 292-2355
E-Mail: phaines@haineslawgroup.com

Settlement Administrator:

Phoenix Settlement Administrators
Email Address: [[insert](#)]
P.O. Box 7208

Orange, California 92863

Telephone: [insert]

Fax Number: [insert]

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

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Attorneys for Plaintiff
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Fax: (424) 292-2355

Attorneys for Plaintiff
JOSE CARLOS MARTINEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JOSE CARLOS MARTINEZ, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

R C FURNITURE, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 21STCV00874

*[Assigned for all purposes to the Hon.
Kenneth R. Freeman, Dept. SSC-14]*

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date:
Time:
Dept.: SSC-14

Action Filed: January 7, 2021
Trial Date: None Set

1 The Motion of Plaintiff Jose Carlos Martinez (“Plaintiff”) for Preliminary Approval of Class
2 Action Settlement will come on regularly for hearing before this Court on _____ at _____ a.m. The Court,
3 having considered the proposed Class Action and PAGA Settlement Agreement and Class Notice (the
4 “Settlement”), attached as Exhibit 1 to the Declaration of Scott M. Lidman filed concurrently with the
5 Motion; having considered Plaintiff’s Motion for Preliminary Approval of Class Action Settlement,
6 Memorandum of Points and Authorities in support thereof, and supporting declarations filed therewith;
7 and good cause appearing, HEREBY ORDERS THE FOLLOWING:

8 1. The Court GRANTS preliminary approval of the class action settlement as set forth in
9 the Settlement and finds its terms to be within the range of reasonableness of a settlement that ultimately
10 could be granted approval by the Court at a Final Fairness Hearing. For purposes of the Settlement,
11 the Court finds that the proposed Settlement Class is ascertainable and that there are a sufficiently well-
12 defined community of interest among the members of the Settlement Class in questions of law and fact.
13 Therefore, for settlement purposes only, the Court grants conditional certification of the following
14 Settlement Class:

15 All individuals who were employed by Defendant R C Furniture, Inc. and
16 classified as hourly, non-exempt employees at any time between January 7,
2017 through November 7, 2022.

17 2. For purposes of the Settlement, the Court designates named Plaintiff Jose Carlos
18 Martinez as Class Representative, and Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman
19 Law, APC and Paul Haines of Haines Law Group, APC as Class Counsel.

20 3. The Court designates Phoenix Settlement Administrators as the third-party Settlement
21 Administrator for mailing notices.

22 4. The Court approves, as to form and content, the Court Approved Notice of Class Action
23 Settlement and Hearing Date for Final Court Approval (“Class Notice”) and is attached to the Settlement
24 as Exhibit A.

25 5. The Court finds that the form of notice to the Settlement Class regarding the pendency of
26 the action and of the Settlement, and the methods of giving notice to members of the Settlement Class,
27 constitutes the best notice practicable under the circumstances, and constitute valid, due, and sufficient
28 notice to all members of the Settlement Class. The form and method of giving notice complies fully

1 with the requirements of California Code of Civil Procedure section 382, California Civil Code section
2 1781, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and
3 other applicable law.

4 6. The Court further approves the procedures for Settlement Class Members to opt out of or
5 object to the Settlement, as set forth in the Class Notice.

6 7. The procedures and requirements for filing objections in connection with the Final
7 Fairness Hearing are intended to ensure the efficient administration of justice and the orderly
8 presentation of any Settlement Class Member's objection to the Settlement, in accordance with the due
9 process rights of all Settlement Class Members.

10 8. The Court directs the Settlement Administrator to mail the Class Notice to the members
11 of the Settlement Class in accordance with the terms of the Settlement.

12 9. The Class Notice shall provide at least 45 calendar days' notice for members of the
13 Settlement Class to opt out of, or object to, the Settlement.

14 10. The Final Fairness Hearing on the question of whether the Settlement should be finally
15 approved as fair, reasonable, and adequate is scheduled in Department 14 of this Court, located at 312
16 North Spring Street, Los Angeles, California, 90012 on [REDACTED], 2023 at [REDACTED] a.m. /
17 p.m.

18 11. At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement should
19 be finally approved as fair, reasonable, and adequate for the Settlement Class; (b) whether a judgment
20 granting final approval of the Settlement should be entered; and (c) whether Plaintiff's application for
21 reasonable attorneys' fees, reimbursement of litigation expenses, service award to Plaintiff, and payment
22 to the Labor and Workforce Development Agency ("LWDA") for penalties under the Labor Code
23 Private Attorneys General Act ("PAGA") should be granted.

24 12. Counsel for the parties shall file memoranda, declarations, or other statements and
25 materials in support of their request for final approval of the Settlement, attorneys' fees, litigation
26 expenses, Plaintiff's service award, settlement administration costs, and payment to the LWDA for
27 PAGA penalties prior to the Final Fairness Hearing according to the time limits set by the Code of Civil
28 Procedure and the California Rules of Court.

13. An implementation schedule is below:

Event	Date
Defendant to provide Class Data to Settlement Administrator	15 calendar days after issuance of the preliminary approval order
Settlement Administrator to mail Notice Packets to Class Members	3 business days after receiving Class Information from Defendant
Deadline for Class Members to request exclusion from, submit disputes, or object to, the Settlement	45 calendar days after mailing of the Notice by the Settlement Administrator
Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement:	16 court days before Final Fairness Hearing
Final Fairness Hearing:	_____, 2023 at _____ a.m./p.m.

14. Pending the Final Fairness Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed.

15. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement.

IT IS SO ORDERED.

Dated: _____, 2023

Honorable Kenneth R. Freeman
Judge of the Superior Court

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

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Fax: (424) 292-2355

Attorneys for Plaintiff
JOSE CARLOS MARTINEZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JOSE CARLOS MARTINEZ, as an
individual and on behalf of all others similarly
situated,

Plaintiff,

vs.

R C FURNITURE, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 21STCV00874

*[Assigned for All Purposes to Hon. Kenneth R.
Freeman, SSC-14]*

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS
REPRESENTATIVE'S SERVICE
PAYMENT, AND ATTORNEYS' FEES AND
COSTS**

Date:
Time:
Dept.: SSC-14

Complaint Filed: January 7, 2021
Trial Date: None Set

1 This matter came on regularly for hearing before this Court on [REDACTED], pursuant to
2 California Rule of Court 3.769 and this Court's [REDACTED] Order Granting Preliminary Approval
3 of Class Action Settlement ("Preliminary Approval Order"). Having considered the parties'
4 Class Action and PAGA Settlement Agreement and Class Notice ¹ and the documents and
5 evidence presented in support thereof, and recognizing the sharply disputed factual and legal
6 issues involved in this case, the risks of further prosecution and the substantial benefits to be
7 received by the Settlement Class pursuant to the Settlement, the Court hereby makes a final
8 ruling that the proposed Settlement is fair, reasonable, and adequate, and is the product of good
9 faith, arm's-length negotiations between the parties. Good cause appearing therefor, the Court
10 hereby GRANTS Plaintiff's Motion for Final Approval of Class Action Settlement and
11 ORDERS as follows:

12 1. The conditional class certification contained in the Preliminary Approval Order is
13 hereby made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement
14 Class consisting of:

15 All individuals who were employed by Defendant R C Furniture, Inc. and
16 classified as hourly, non-exempt employees at any time between January 7,
2017 through November 7, 2022.

17 2. Plaintiff Jose Carlos Martinez is hereby confirmed as Class Representative, and
18 Scott M. Lidman, Elizabeth Nguyen and Milan Moore of Lidman Law, APC and Paul K. Haines
19 of Haines Law Group, APC are hereby confirmed as Class Counsel.

20 3. Notice was provided to the Settlement Class as set forth in the Settlement. The
21 form and manner of notice were approved by the Court on [REDACTED], and the notice process has
22 been completed in conformity with the Court's Order. The Court finds that said notice was the
23 best notice practicable under the circumstances. The Class Notice provided due and adequate
24 notice of the proceedings and matters set forth therein, informed Settlement Class members of
25
26

27 ¹ Unless otherwise indicated, all terms used in this Order shall have the same meaning as that
28 assigned to them in the Settlement.

1 their rights, and fully satisfied the requirements of California Code of Civil Procedure § 1781(e),
2 California Rule of Court 3.769, and due process.

3 4. The Court finds that no Settlement Class member objected to the Settlement and
4 no Settlement class member has opted out of the Settlement, and that the % participation rate
5 in the Settlement supports final approval.

6 5. The Court hereby approves the settlement as set forth in the Settlement
7 Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement
8 Agreement according to its terms.

9 6. For purposes of settlement only, the Court finds that (a) the members of the
10 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
11 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined
12 community of interest among members of the Settlement Class with respect to the subject matter
13 of the litigation; (c) the claims of the Class Representative are typical of the claims of the
14 members of the Settlement Class; (d) the Class Representative has fairly and adequately
15 protected the interests of the Settlement Class members; (e) a class action is superior to other
16 available methods for an efficient adjudication of this controversy; and (f) Class Counsel are
17 qualified to serve as counsel for the Class Representative and the Settlement Class.

18 7. The Court finds that given the absence of objections to the Settlement, and
19 objections being a prerequisite to appeal, that this Order shall be considered final as of the date
20 of notice of entry.

21 8. The Court orders that RC Furniture, Inc. deliver the Gross Settlement Amount of
22 \$825,000.00 to Phoenix Settlement Administrators, the Settlement Administration, within fifteen
23 (15) calendar days of this Order, as provided for in the Settlement.

24 9. Any Settlement funds that remain uncashed after 180 calendar days after they are
25 mailed shall be delivered to the California State Controller's Office – Unclaimed Property Fund
26 in the name of the Settlement Class member.

10. The Court finds that the settlement payments, as provided for in the Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the individual payments in conformity with the terms of the Settlement.

11. The Court finds that a service payment in the amount of \$10,000.00 for Plaintiff Jose Carlos Martinez is appropriate for his risks undertaken and service to the Settlement Class. The Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement Administrator make this payment in conformity with the terms of the Settlement.

12. The Court finds that attorneys' fees in the amount of \$275,000.00, and actual litigation costs of [up to \$25,000] for Class Counsel, are fair, reasonable, and adequate, and orders that the Settlement Administrator distribute these payments to Class Counsel in conformity with the terms of the Settlement.

13. The Court orders that the Settlement Administrator shall be paid \$20,000.00 from the Gross Settlement Amount for all of its work done and to be done until the completion of this matter, and finds that sum appropriate.

14. The Court finds that the payment to the California Labor & Workforce Development Agency (“LWDA”) in the amount of \$15,000.00 for its share of the settlement of Plaintiff’s representative action under the California Labor Code Private Attorneys General Act (“PAGA”) is fair, reasonable, and adequate, and orders the Settlement Administrator to distribute this payment to the LWDA in conformity with the terms of the Settlement.

15. Pursuant to the terms of the Settlement, the employer's share of payroll taxes for the portion of the Net Settlement Amount allocated to wages shall be paid by RC Furniture, Inc. separately, and in addition to, the Gross Settlement Amount.

16. The Court finds and determines that upon satisfaction of all obligations under the Settlement and this Order, all Settlement Class members, will be bound by the Settlement, will have released the Released Claims as set forth in the Settlement, and will be permanently barred from prosecuting against Defendant any of the Released Claims pursuant to the Settlement.

1 17. The Settlement is not an admission by Defendant nor is this Order a finding of
2 the validity of any allegations or of any wrongdoing by Defendant. Neither this Order, the
3 Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement,
4 shall be construed or deemed an admission of liability, culpability, or wrongdoing on the part of
5 Defendant.

6 18. The Court will retain jurisdiction to enforce the Settlement, this Final Approval
7 Order, and the Judgment entered in connection with the Settlement.

8 19. The Settlement Administrator shall file a declaration regarding the disbursement
9 of Settlement funds on or before .

10 **IT IS SO ORDERED.**

11
12 Dated: _____, 2023

Honorable Kenneth R. Freeman
Judge of the Superior Court

EXHIBIT 3

EXHIBIT 3

~~MODEL~~ CLASS ACTION SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action Settlement Agreement (“Agreement”) is made by and between plaintiff Jose Carlos Martinez (“Plaintiff”) and defendant XYZ RC Furniture, Inc. (“~~XYZ~~ Defendant”). The Agreement refers to Plaintiff and ~~XYZ~~ Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against ~~XYZ~~ Defendant captioned (1) Martinez v. RC Furniture, Inc., Case No. 21STCV00874 initiated on January 7, 2021 and pending in Superior Court of the State of California, County of Los Angeles.

1.2 “Operative Complaint” means Plaintiff’s First Amended Complaint, filed in the Los Angeles County Superior Court on May 19, 2021.

1.23. “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.43. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.5 “Aggrieved Employees” means all individuals who were employed by Defendant in California and classified as hourly, non-exempt employees at any time during the PAGA Period.

1.64. “Class” means [define class e.g., all persons employed by ~~XYZ~~ Defendant in California and classified as who worked for XYZ hourly, non-exempt employees at any time during the Class Period].

1.75. “Class Counsel” and/or “PAGA Counsel” means Scott M. Lidman, Elizabeth Nguyen and Milan Moore of Lidman Law, APC, and Paul K. Haines of Haines Law Group, APC. means

1.86. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.97. "Class Data" means Class Member identifying information in XYZ's Defendant's possession including the Class Member's name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Class Period Workweeks and PAGA Pay Periods.

1.810. "Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee) or "Settlement Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member.

1.119. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.

1.120. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English +, with a Spanish translation, if applicable in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.13 "Class Notice Packet" means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).

1.144. "Class Period" means the period from January 7, 2017 through November 7, 2022 to _____.

1.152. "Class Representative" means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.163. "Class Representative Service Payment" means the service payment made to the Plaintiff as Class Representative in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant's expenses, and for the general release of all claims by the Plaintiff. and providing services in support of the Action.

1.174. "Court" means the Superior Court of California, County of Los Angeles.

1.185. "XYZ Defendant" means named Defendant _____RC Furniture, Inc.

1.196. "Defense Counsel" means Roger Mansukhani, George P. Soares, and Darin R. Webb of Gordon Rees Scully Mansukhani, LLP. _____.

1.2047. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the

Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.~~1821~~. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

1.~~1922~~. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.

1.~~2023~~. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.~~241~~. “Gross Settlement Amount” means \$ Eight Hundred Twenty-Five Thousand Dollars and Zero Cents (\$825,000.00) ~~_____~~ which is the total amount to be paid by Defendant as provided by this Agreement XYZ agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administrator’s Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant

1.~~252~~. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.26 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.~~273~~. “Judgment” means the judgment entered by the Court based upon the Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

1.28 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.29 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.~~3024~~. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel

Litigation Expenses Payment, and the Administration Expenses Payment. The ~~remainder-Net Settlement Amount~~ is to be paid to Participating Class Members as Individual Class Payments.

1.~~2531~~. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion to the Administrator.

1.32 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.33 “PAGA Period” means the period of time from January 7, 2020 through November 7, 2022.

1.34 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.35 “PAGA Notice” means the Plaintiff’s January 7, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.36 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000) and the 75% to LWDA (\$15,000) in settlement of PAGA claims.

1.~~2637~~. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion ~~from the Settlement~~.

1.~~2738~~. “Plaintiff” means _____, Jose Carlos Martinez, the named plaintiff in the Action.

1.~~2839~~. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.

~~1.29. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval.~~

1.~~3040~~. “Released Class Claims” means all class claims and/or causes of action pled or could have been pled based on the factual allegations contained in the Operative Complaint or Plaintiff’s Class Action which occurred during the Class Period, including all claims for: (i) failure to pay minimum wages; (ii) failure to pay overtime wages; (iii) failure to provide meal periods; (iv) failure to authorize and permit rest periods; (v) failure to provide accurate, itemized wage statements; (vi) failure to timely pay all wages upon termination; and (vii) all claims for unfair competition arising from (i) through (vi) above. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, and expressly exclude all other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or class claims based on facts occurring outside the Class Period~~the claims being released as described in Paragraph 6.2 below.~~

1.41 “Released PAGA Claims” means all PAGA claims pled or could have been pled based on the factual allegations contained in the Operative Complaint and/or PAGA letters sent by Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees. The Released PAGA Claims do not include, and expressly exclude, other PAGA claims, underlying wage and hour claims, claims for vested

benefits, wrongful termination, discrimination, unemployment insurance, disability, social security, worker's compensation, and PAGA claims outside of the PAGA Period.

1.3142. "Released Parties" means: XYZ-Defendant and each of its former and present directors, officers, shareholders, owners, ~~[members]~~, attorneys, insurers, predecessors, successors, assigns, and ~~[subsidiaries]~~ ~~[affiliates]~~.

1.3243. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.3344. "Response Deadline" means ~~[e.g., 60]~~45 days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) ~~fax, email, or mail-submit~~ Requests for Exclusion from the Settlement, or (b) ~~fax, email, or mail-submit~~ his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.3445. "Settlement" means the disposition of the Action and all related claims effected by this Agreement and the Judgment.

1.35. "Workweek" means any week during which a Class Member worked for XYZ-Defendant as a Class Member for at least one day, ~~during the Class Period.~~

2. RECITALS.

Plaintiff's Class Action

2.1. On _____, January 7, 2021, Plaintiff commenced this Action by filing a Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles ("Plaintiff's Class Action"). Plaintiff's Complaint asserted claims that Defendant:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1
- (c) Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226; and.
- (g) Failed to timely pay all wages upon termination in violation of California Labor Code §§201-203;

2.2 On May 19, 2021, Plaintiff filed a First Amended Complaint adding a cause of

action under the California Private Attorney General Act, Labor Code §2698 et seq. based on the same factual allegations as the underlying Labor Code claims asserted in the original Complaint.

2.3 On June 22, 2021, Defendant filed an Answer to Plaintiff's First Amended Complaint asserting Fifty-Eight (58) affirmative defenses.

~~alleging causes of action against XYZ for _____. [The Complaint is the operative complaint in the Action (the "Operative Complaint.")] [On _____, Plaintiff filed a [e.g., First Amended Complaint] alleging causes of action against XYZ for _____. The [e.g., First Amended] Complaint is the operative complaint in the Action (the "Operative Complaint.")] XYZ denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.~~

2.4 Defendant denies the allegations in the Operative Complaint and Plaintiff's Action, denies any failure to comply with the laws identified in in Operative Complaint and Plaintiff's Action and denies any and all liability for the causes of action alleged.

Mediation and Settlement

2.5 On August 10, 2022, the Parties participated in an all-day mediation presided over by Jeffrey Ross, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator's proposal. This Agreement memorializes the terms of that proposal.

~~2.2. On _____, the Parties participated in an all-day mediation presided over by _____ which led to this Agreement to settle the Action.~~

~~2.63. Prior to mediation negotiating the Settlement, Plaintiff obtained, through formal and informal] discovery, _____. Sufficient documents and information to sufficiently investigate the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in Dunk v. Foot Locker Retail, Inc. (1996) 48 Cal.App.4th 1794, 1801 and Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 129-130 ("Dunk/Kullar"). These documents included Defendant's wage and hour policies as well as time and payroll records for the putative class members.~~

2.7 This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to any and all of the claims in the Action.

2.84. The Court has not granted class certification insofar as the case mediated and

settled prior to Plaintiff filing a motion for class certification.

2.95. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, XYZ-Defendant promises to pay \$ \$825,000.00 and no more as the Gross Settlement Amount ~~[and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments.]~~ This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. XYZ-Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph ~~6-14.3~~ of this Agreement.

The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to XYZ-Defendant.

~~(type in additional dates)~~

~~(describe alternative means of action)~~

~~(documents, testimony and information obtained)~~

~~(insert details as needed)~~

3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, The-the Administrator will make and ~~deduct~~ the following payments ~~from-out of~~ the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$ (\$10,000) (in addition to any Individual Class Payment ~~[and any Individual PAGA Payment]~~ the Class Representative is entitled to receive as a Participating Class Member). XYZ-Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than ~~[16 court]~~ days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than ~~%one-third (1/3),~~ which is currently estimated to be \$ \$275,000 and a Class Counsel Litigation Expenses Payment of not more than \$. \$25,000. XYZ-Defendant will not

oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than ~~16 court~~ days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds ~~XYZ-Defendant~~ harmless, and indemnifies ~~XYZ-Defendant~~, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$ ~~_____~~ \$20,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$ ~~_____~~ \$20,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.

(d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000 to be paid from the Gross Settlement Amount, with 75% (\$15,000) allocated to the LWDA PAGA Payment and 25% (\$5,000) allocated to the Individual PAGA Payments.

- i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
- ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. ~~% _____~~ %50 of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The ~~% _____~~ %50 of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for [e.g., interest and penalties] (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full

responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

4.SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class and PAGA Figures and Workweeks. Based on a ~~review of~~ its records ~~to date~~, ~~XYZ Defendant has represented that the Class consists of 197 estimates there are~~ Class Members who collectively worked a total of 22,100 Workweeks. ~~Further, Defendant has represented that there are a total of 180 Aggrieved Employees who worked a total of 13,545 PAGA Period Workweeks.~~

4.2. Class Data. Not later than ~~{e.g., 15}~~ days after the Court grants Preliminary Approval of the Settlement, ~~XYZ Defendant~~ will ~~simultaneously~~ deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. ~~XYZ Defendant~~ has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which ~~XYZ Defendant~~ must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. ~~XYZ Defendant~~ shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay ~~XYZ's Defendant's~~ share of payroll taxes by transmitting the funds to the Administrator no later than ~~{14}15 calendar~~ days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within ~~{14}~~ days after ~~XYZ Defendant~~ funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. ~~Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments.~~

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date ~~(not less than, which is~~ 180 days after the date of mailing.) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice

was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 180 days after its last mailing to the affected individual, the Settlement Administrator will also send the individual a notice informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within ~~{7}~~ days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks [to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).] [or to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b)] ~~("Cy Pres Recipient")~~ _____. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate ~~XYZ-Defendant~~ to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement, and shall not reduce such contributions or bonuses.

6. RELEASES OF CLAIMS. Effective on the date when ~~XYZ-Defendant~~ fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees and ~~Class Counsel~~ the LWDA will release claims against all Released Parties as follows:

6.1 Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences ~~{that occurred during the Class Period}~~, including, but not limited to: (a) all claims that were, or ~~reasonably~~ could have been, alleged, based on the facts contained, in the Operative Complaint and/or Plaintiff's PAGA Notice ~~[or ascertained during the Action and released under 6.2, below]~~. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class

Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

(a) ~~6.1.1~~ Plaintiff's Waiver of Rights Under California Civil Code Section 1542.

For purposes of Plaintiff's Release herein above and Plaintiff's release of other claims herein below, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

6.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the released Class Claims ~~(i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.]. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.~~

6.3 Release of PAGA Claims. All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all of the Released PAGA Claims.

6.4 Release by PAGA Counsel. Except as otherwise provided in this Agreement, Class Counsel release on behalf of themselves, and their employees, agents, successors, and assigns, the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

7. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals procedures and instructions.

7.1 XYZ's Declaration in Support of Preliminary Approval Defendant's Responsibilities. Within 14 days of the full execution of this Agreement, XYZ Defendant will prepare and deliver to Class Counsel a signed Declaration ~~from XYZ and Defense Counsel~~ disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator ~~and Cy Pres Recipient~~. In their this Declarations, ~~Defense Counsel and XYZ Defendant~~ shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by

the Settlement. In this declaration, Defendant shall also aver as to the number of class members and the number of Workweeks for the Class during the Class Period.

7.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of the PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members [and/or the proposed Cy Pres]; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, [and/or] the Administrator [and/or the proposed Cy Pres]; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.2 subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient; ~~(vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court~~; In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than ~~[3060]~~ days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

8. SETTLEMENT ADMINISTRATION.

8.1 Selection of Administrator. The Parties have jointly selected _____ Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, _____ Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrators duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

8.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

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

8.4 Notice to Class Members.

8.4.1(a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, ~~and~~ Workweeks, and Pay Periods in the Class Data.

8.4.2 (b) Using best efforts to perform as soon as possible, and in no event later than ~~{14}~~ calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice ~~{with Spanish translation, if applicable}~~ substantially in the form attached to this Agreement as Exhibit _____. A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

8.4.3(c) Not later than ~~{3}~~ 7 business-calendar days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation

to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional ~~{14}~~ days beyond the ~~{60}{45}~~ days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Administrator, ~~XYZ-the Parties, Defense Counsel,~~ or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than ~~{14}~~ calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5 Requests for Exclusion (Opt-Outs).

~~8.5.1(a)~~ Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than ~~{60}{45}~~ days after the Administrator mails the Class Notice (plus an additional ~~{14}~~ days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

~~8.5.2(b)~~ The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

~~8.5.3(c)~~ Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4(d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6 Challenges to Calculation of Workweeks. Each Class Member shall have ~~60~~45 days after the Administrator mails the Class Notice (plus an additional ~~14~~ days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than ~~60~~45 days after the Administrator's mailing of the Class Notice (plus an additional ~~14~~ days for Class Members whose Class Notice was re-mailed).

8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

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

8.8.1(a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the

Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

8.8.2(b) Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than ~~{5}~~ 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

(c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

8.8.3(d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

~~8.8.4 Workweek Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.~~

8.8.5(e) Administrator’s Declaration. Not later than ~~{14}~~ 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

8.8.6(f) Final Report by Settlement Administrator. Within ~~{10}~~ days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will

provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least ~~{15}~~7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

9. CLASS SIZE ESTIMATES [and ESCALATOR CLAUSE] Based on its records, ~~XYZ~~ estimates that, as of the date of this Settlement Agreement, (1) there are _____ Class Members and _____ Total Workweeks during the Class period. Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 8.1 above. Should the number of workweeks identified in paragraph 4.1 above increase by more than 10% during the Class Period, the Defendant will have the option to either: (a) increase the gross settlement proportionally, or (b) shorten the release period to the date on which the number of workweeks reaches 10% above the total set forth in paragraph 4.1 above, so that there is no increase in the gross settlement amount.

10. ~~XYZ'S-DEFENDANT'S~~ RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds % ~~_____~~ 5% of the total of all Class Members, ~~XYZ-Defendant~~ may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if ~~XYZ-Defendant~~ withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, ~~XYZ-Defendant~~ will remain responsible for paying all Settlement Administration Expenses incurred to that point. ~~XYZ-Defendant~~ must notify Class Counsel and the Court of its election to withdraw not later than ~~{seven}~~7 calendar days after the Administrator sends the final Exclusion List to Defense Counsel. Withdrawal shall be by written notice to Class Counsel (email will suffice). Invalid Requests for Exclusion will have no effect on this threshold for an election. The Parties and their Counsel agree not to take any action to encourage any Class Members to opt-out of and/or object to the Settlement; late elections will have no effect.

11. MOTION FOR FINAL APPROVAL. Unless otherwise ordered by the Court, Not-not later than ~~{16}~~ court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(1), a Proposed Final Approval Order and a proposed Judgment(collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than ~~{seven}~~7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later that ~~{five}~~5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a ~~50-50~~ equal basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

13. ADDITIONAL PROVISIONS.

13.1 No Admission of Liability, Class Certification or Representative Manageability

for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by XYZ-Defendant that any of the allegations in the Operative Complaint have merit or that XYZ has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that XYZ's-Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, XYZ-Defendant reserves the right to contest certification of any class for any reasons, and XYZ Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest XYZ's-Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, XYZ-Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, XYZ Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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

13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and XYZ-Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement

to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

13.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of ~~a mediator and/or the Court for resolution~~ Mediator Jeff Krivis for resolution.

13.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

13.8 No Tax Advice. Neither Plaintiff, Class Counsel, ~~XYZ-Defendant~~ nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

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

13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

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

13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by ~~XYZ-Defendant~~ in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's

obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from ~~XYZ Defendant, unless, prior to the Court's discharge of the Administrator's obligation, XYZ makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.~~

13.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

13.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

To Plaintiff and the Class:

Scott M. Lidman
Elizabeth Nguyen
Milan Moore
Lidman Law, APC
2155 Campus Drive Suite 150
El Segundo, CA 90245
Tel.: (424) 322-4772
Fax: (424) 322-4775
E-Mail: slidman@lidmanlaw.com
enguyen@lidmanlaw.com
mmoore@lidmanlaw.com

and

Paul K. Haines
Haines Law Group, APC
2155 Campus Drive Suite 180
El Segundo, CA 90245
Tel.: (424) 292-2350
Fax: (424) 292-2355
E-Mail: phaines@haineslawgroup.com

To Defendant:

Roger M. Mansukhani
George P. Soares
Darin R. Webb
Gordon Rees Scully Mansukhani, LLP
101 W. Broadway, Suite 2000

San Diego, CA 92101
Telephone: (619) 230-7447
Facsimile: (619) 696-7124
E-Mail: rmansukhani@grsm.com
gsoares@grsm.com
dwebb@grsm.com

~~To Plaintiff:~~

~~To XYZ:~~

13.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

13.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____

Plaintiff Jose Carlos Martinez

Dated: _____

[name]
For Defendant RC Furniture, Inc.

Dated: _____

Scott Lidman
Lidman Law, APC
Attorney for Plaintiff

Dated: _____

Paul K. Haines
Haines Law Group, APC
Attorney for Plaintiff

Dated: _____

Roger M. Mansukhani
George P. Soares
Darin R. Webb
Gordon Rees Scully Mansukhani, LLP

Attorney for Defendant

[illegible]