

1 Ian Silvers
2 BISNAR CHASE
3 1301 Dove Street, STE 120
4 Newport Beach, CA 92660
5 Tel: (949) 752-2999
6 Fax: (949) 752-2777
7 isilvers@bisnarchase.com

8 Richard C. Alpers
9 ALPERS LAW GROUP, INC.
10 PO Box 1540
11 Aptos, CA 95001
12 Tel: (831) 240-0490
13 Fax: (855) 870-1129
14 Email: rca@alperslawgroup.com

15 Attorneys for Plaintiff
16 Alan Elizalde, on behalf of himself, all others
17 similarly situated, and the general public

18 *[Counsel for Defendants on following page]*

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **FOR THE COUNTY OF MONTEREY**

21 Alan Elizalde, on behalf of himself, all others
22 similarly situated, and the general public,

23 Plaintiffs,

24 vs.

25 SECO Packing II LLC, a California Limited
26 Liability Company, Mission Ranches Holdings,
27 LLC, a California Limited Liability Company,
28 and DOES 1 through 100, inclusive,

Defendants.

Case No. 21CV000416

Complex Dept. 14

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

[Assigned for all purposes to The Honorable
Carrie M. Panetta, Dept. 14]

Action Filed: 2021-02-11
Trial Date: None Set

Case No. 21CV000416

1 MICHAEL D. WILSON, JR., CA Bar 233334
2 michael.wilson@ogletree.com
3 OGLETREE, DEAKINS, NASH, SMOAK
4 & STEWART, P.C.
5 One Embarcadero Center, Suite 900
6 San Francisco, CA 94111
7 Telephone: 415-442-4810
8 Facsimile: 415-442-4870

9 ANDREW B. LEVIN, CA Bar 307199
10 andy.levin@ogletree.com
11 OGLETREE, DEAKINS, NASH, SMOAK
12 & STEWART, P.C.
13 Esplanade Center III, Suite 800
14 2415 East Camelback Road
15 Phoenix, AZ 85016
16 Telephone: 602-778-3700
17 Facsimile: 602-778-3750

18 Attorneys for Defendants
19 SECO Packing II LLC and Mission Ranches Holdings, LLC
20
21
22
23
24
25
26
27
28

1 This Labor Code Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) Settlement
2 Agreement (“Settlement Agreement” or “Agreement”) is made by and between ALAN ELIZALDE
3 (“Plaintiff”), on his own behalf and on behalf and as a representative and proxy of the State of
4 California for the members of the PAGA Group (as defined below) , on the one hand, and SECO
5 PACKING II LLC and MISSION RANCHES HOLDINGS, LLC (“Defendants”) on the other hand
6 (collectively the “Parties”), in the lawsuit entitled *Alan Elizalde v. SECO Packing II LLC and*
7 *Mission Ranches Holdings, LLC* filed on February 11, 2021, in Monterey County Superior Court,
8 Case No. 21CV000416 (the “Litigation”). This Settlement Agreement resolves all claims under the
9 California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, *et*
10 *seq.*, based on or arising out of alleged violations of the Labor Code that were pled or could have
11 been alleged based on the factual allegations and identified Labor Code sections in the operative
12 pleading for the Litigation and the LWDA Letter.

13 **I. DEFINITIONS**

14 **A. Administrative Costs.** The term “Administrative Costs” as used herein means all
15 administrative costs of settlement, including cost of notice to the PAGA Group, administration and
16 any fees and costs incurred or charged by the Settlement Administrator in connection with the
17 execution of its duties under this Settlement Agreement.

18 **B. Agreement or Settlement Agreement.** The terms “Agreement” or “Settlement
19 Agreement” are used synonymously herein to mean this PAGA Settlement Agreement.

20 **C. Court.** The term “Court” as used herein means the Superior Court of the State of
21 California for the County of Monterey.

22 **D. Defendants.** The term “Defendants” as used herein means Defendants SECO
23 Packing II LLC and Mission Ranches Holdings, LLC.

24 **E. Defendants’ Counsel.** The term “Defendants’ Counsel” as used herein means
25 Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

26 **F. Individual Settlement Payment.** The term “Individual Settlement Payment” as used
27 herein means the payment that each member of the PAGA Group will receive as his or her share of
28

1 the Net Settlement Amount. The portion of the Net Settlement Amount to be distributed to the PAGA
2 Group shall be divided by the total number of full pay periods, with partial pay periods rounded up
3 to the next whole number, as shown by Defendants' records, for all times during the PAGA Release
4 Period which the member of the PAGA Group worked for Defendants. This amount shall be known
5 as the "Pay Period Value." Each member of the PAGA Group shall be paid an amount equal to the
6 number of individual pay periods he or she worked for Defendants during the PAGA Release Period
7 multiplied by the Pay Period Value. Defendants represent that, based on a reasonable investigation
8 of its records, as of mediation on October 17, 2023 the total number of full pay periods worked by
9 individuals in the PAGA Group, including Plaintiff, does not exceed 45,484.

10 **G. Litigation.** The term "Litigation" as used herein means the action entitled *Alan*
11 *Elizalde v. SECO Packing II LLC and Mission Ranches Holdings, LLC* filed on February 11, 2021,
12 in Monterey County Superior Court, Case No. 21CV000416.

13 **H. LWDA.** The term "LWDA" as used herein means the California Labor and
14 Workforce Development Agency, a State of California Executive Branch Agency.

15 **I. LWDA Letter.** The term "LWDA Letter" as used herein means the February 10,
16 2021 letter submitted on behalf of Plaintiff to the LWDA.

17 **J. LWDA Payment.** The term "LWDA Payment" as used herein means the seventy-
18 five percent (75%) of the Net Settlement Amount payable to the LWDA.

19 **K. Net Settlement Amount.** The term "Net Settlement Amount" as used herein means
20 the Settlement Amount minus any award of attorneys' fees and litigation costs to Plaintiff's Counsel,
21 Administrative Costs, and Plaintiff's Enhancement. Based on the statutory requirement that seventy-
22 five percent (75%) of PAGA civil penalties be paid to the LWDA and twenty-five percent (25%) of
23 PAGA civil penalties be distributed to the aggrieved employees, seventy-five percent (75%) of the
24 Net Settlement Amount will be paid to the LWDA and twenty-five percent (25%) of the Net
25 Settlement Amount will be paid to the PAGA Group based on the distribution formula set forth
26 below.

27 **L. PAGA Group.** The PAGA Group is defined as: All persons within the State of
28

California who are or were employed by SECO Packing II, LLC or Mission Ranches Holdings, LLC in the State of California as an hourly, non-exempt employee at any time within the PAGA Release Period.

M. PAGA Release Period. The term “PAGA Release Period” as used herein shall refer to the time period from and including August 20, 2019 through December 31, 2023.

N. Plaintiff. The term “Plaintiff” as used herein means Alan Elizalde.

O. Plaintiff’s Counsel. The term “Plaintiff’s Counsel” as used herein means Ian M. Silvers of Bisnar Chase, LLP and Richard C. Alpers of Alpers Law Group, Inc.

P. QSF means the Qualified Settlement Fund established, designated, and maintained by the Settlement Administrator to fund the Settlement Amount.

Q. Settlement Administrator. The Settlement Administrator establishes, designates, and maintains a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1 into which the amount of the Settlement Amount is deposited for the purpose of resolving the claims in the Litigation on behalf of the Plaintiff on behalf of himself and as an as a representative and proxy of the LWDA. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendants and any person related to Defendants. All accrued interest shall be paid and distributed to the PAGA Group as part of their respective share of the Net Settlement Amount.

R. Settlement Amount. The term “Settlement Amount” as used herein means a fund in the sum of One Million Two Hundred Thousand dollars (\$1,200,000), which shall be paid by Defendants. The Settlement Amount shall cover, resolve, and fully satisfy the Administrative Costs and any and all amounts owed to Plaintiff, including the Enhancement (defined below), the PAGA Group, the LWDA, and Plaintiff’s Counsel, including all amounts allocated to attorneys’ fees and litigation costs.

II. BACKGROUND

A. On February 10, 2021, Plaintiff filed a Notice of Violations with the LWDA based on Defendants’ alleged violations of California Labor Code sections 201, 202, 203, 204, 204b, 205,

210, 216, 223, 225.5 226, 226.3, 226.7, 500, 510, 511, 512, 558, 860, 1174, 1174.5, 1194, 1197, and 1198, and applicable Industrial Welfare Commission Wage Orders and served the same on Defendants. On February 11, 2021, Plaintiff filed the Litigation against Defendants, asserting eight causes of action on a class action basis. On March 17, 2021, Defendants filed an Answer asserting numerous affirmative defenses. On April 20, 2021, Plaintiff filed a First Amended Complaint adding a ninth cause of action under PAGA. On August 6, 2021, Plaintiff filed a Second Amended Complaint asserting just one cause of Action under PAGA based on the allegations in the LWDA Letter. On September 8, 2021, Defendants filed an Answer to the Second Amended Complaint denying the allegations and asserting numerous affirmative defenses.

B. After a stay of proceedings, on October 17, 2023, the Parties voluntarily attended an all-day mediation presided over by Mark Rudy, an experienced mediator in PAGA cases. In advance of mediation, the Parties exchanged informal discovery, including: timekeeping and payroll records; information and documentation concerning the claims set forth in the Litigation; and information regarding the number of PAGA Group members and the total workweeks and pay periods worked by the PAGA Group during the PAGA Release Period.

C. The mediation concluded with no settlement being reached, but the Parties continued to work with Mr. Rudy, and ultimately reached a settlement.

D. Plaintiff's Counsel has conducted an investigation of the law and facts relating to the claims asserted in the Litigation and has concluded, taking into account, among other things, the contested issues involved, the expense and time necessary to pursue the Litigation through trial and any appeals, the risks and costs of further prosecution of the Litigation, the risk of an adverse outcome, the uncertainties of complex litigation, and the substantial benefits to be received by the State of California and the members of the PAGA Group pursuant to this Agreement, that a settlement with Defendants on the terms and conditions set forth herein is fair, reasonable, adequate, and in the best interests of the State of California and the PAGA Group. Plaintiff, on his own behalf and as a representative and proxy pursuant to PAGA, has agreed to settle the Litigation with Defendants on the terms set forth herein.

1 E. Defendants have concluded that, because of the substantial expense of defending
2 against the Litigation, the contested issues, the risk of an adverse outcome, the uncertainties of
3 complex litigation, the length of time necessary to resolve the issues presented herein, the
4 inconvenience involved, and the concomitant disruption to its business operations, it is in its best
5 interests to accept the terms of this Agreement. Defendants deny each of the allegations and claims
6 asserted against it in the Litigation. However, Defendants nevertheless desire to settle the Litigation
7 for the purpose of avoiding the burden, expense and uncertainty of continuing litigation and for the
8 purpose of putting to rest the controversies engendered by the Litigation.

9 F. This Agreement is intended to and does effectuate the full, final and complete
10 resolution of all allegations and claims under the PAGA, Labor Code §§ 2698, et seq., based on or
11 arising out of alleged violations of the Labor Code including all claims that could have been alleged
12 based on the factual allegations and identified Labor Code sections in the operative pleading for the
13 Litigation and the LWDA Letter.

14 **III. JURISDICTION**

15 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
16 Litigation includes claims that, while Defendants deny them in their entirety, would, if proven,
17 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
18 approval of this Agreement, pursuant to California Code of Civil Procedure § 664.6 the Court shall
19 retain jurisdiction of this action solely for the purpose of interpreting, implementing, and enforcing
20 this Agreement consistent with the terms set forth herein, and the Parties and their counsel submit
21 to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing this
22 Agreement and all orders and judgments entered in connection therewith.

23 **IV. STATEMENT OF NO ADMISSION**

24 A. Defendants deny liability to Plaintiff, the LWDA and to the PAGA Group upon any
25 and all claims or cause of actions. This Agreement does not constitute, and is not intended to
26 constitute, an admission by Defendants as to the merits, validity, or accuracy of any of the allegations
27 or claims made against it in the Litigation.

1 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor any
2 statements, discussions or communications, nor any materials prepared, exchanged, issued or used
3 during the course of the negotiations leading to this Agreement is intended by the Parties to
4 constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any
5 way in this case or any other judicial, arbitral, administrative, investigative or other forum or
6 proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance,
7 regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties
8 themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case
9 or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as
10 purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation,
11 rule or executive order, or any obligation or duty at law or in equity, or for any other purpose.
12 Notwithstanding the foregoing, this Agreement may be used in any proceeding before the Court that
13 has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders
14 or judgments of the Court entered in connection with the settlement and if enforcement of this
15 agreement is required, then the prevailing party shall be entitled to reasonable attorneys' fees and
16 costs incurred.

17 **C.** None of the documents produced or created by Plaintiff or his counsel in connection
18 with the approval of this settlement or administration of this settlement constitute, and they are not
19 intended to constitute, an admission by Defendants of any violation of any federal, state, or local
20 law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in
21 equity.

22 **D.** Nothing in this Agreement will be construed as an admission or acknowledgement
23 of any kind that any group should or would be given collective treatment in the Litigation or in any
24 other action or proceeding. Further, neither this Agreement nor the Court's actions with regard to
25 this Agreement will be admissible in any court or other tribunal regarding the propriety of collective
26 treatment (separate from enforcement of the agreement after approval by the Court as noted above).
27 In the event that this Agreement is not granted final approval by the Court or any appellate court
28

(which is intended to exclude times the Court seeks additional information or changes to the agreement), is terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to have waived, limited or affected in any way any claims, rights or remedies in the Litigation, and Defendants will not be deemed to have waived, limited, or affected in any way any of their rights, objections or defenses in the Litigation.

V. CONDITIONS PRECEDENT AND NULLIFICATION OF AGREEMENT

A. This Settlement will become final and effective upon the Court entering judgment pursuant to either the Parties' motion for settlement approval.

B. If this Settlement Agreement is not given final approval by the Court (as noted above) or fails to become effective in some other way:

i. This Settlement Agreement shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and

ii. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses or arguments in the Action.

VI. RELEASE, DISMISSAL, AND CONFIDENTIALITY

A. Settlement Consideration

In full and complete settlement of the Litigation, and in exchange for the releases set forth below, Defendants will pay the sum of the Administrative Costs and any and all amounts owed to Plaintiff, including the Enhancement (defined below), the PAGA Group, the LWDA, and Plaintiff's Counsel, including all amounts allocated to attorneys' fees and litigation costs as specified in this Agreement, equal to the Settlement Amount of One Million Two Hundred Thousand Dollars (\$1,200,000). The Parties agree that this is a non-reversionary Settlement and that no portion of the Settlement Amount shall revert to Defendants. Defendants shall not be required to pay more than the Settlement Amount.

As noted above, as of mediation Defendants represent that, based on a reasonable investigation of its records, as of mediation on October 17, 2023 the total number of full pay periods

1 worked by individuals in the PAGA Group, including Plaintiff, was 45,484 pay periods in the PAGA
2 Period. If the number of pay periods in the PAGA Period increases by more than 10% (*i.e.*, more
3 than 50,032) as of the end of the PAGA Period, Defendants shall, at their option, either: (a)
4 proportionally increase the Settlement Amount by an equal percentage; or (b) the ending date of the
5 PAGA Period shall be changed to the date of the mediation and the Gross Settlement shall not be
6 increased.

7 **B. Scope of Release.**

8 Upon approval of this Settlement Agreement by the Court, and in exchange for the
9 consideration set forth in this Agreement, Plaintiff, individually and as a representative acting as a
10 proxy or agent of the LWDA in this Litigation for members of the PAGA Group, agrees to release
11 Defendants and their parent, subsidiary, affiliated, predecessor and successor companies and entities
12 (including Taylor Harvesting LLC and only to the extent any PAGA Group members worked for
13 Taylor Harvesting when SECO Packing II, LLC changed its name to Taylor Harvesting), along with
14 each of its current and former subsidiaries, parent corporations, affiliates, predecessors agents,
15 employees, successors, assigns, officers, officials, directors, and shareholders,. (collectively, the
16 “Released Parties”), of and from any and all claims under the California Labor Code Private
17 Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, *et seq.*, that were or could have
18 been alleged based on the factual allegations and identified Labor Code sections in the Litigation and
19 the LWDA Letter (regarding only their employment by SECO Packing, II LLC and Mission Ranches
20 Holdings, LLC), including, but not limited to, California Labor Code sections §§ 201, 202, 203, 204,
21 204b, 205, 210, 216, 223, 225.5, 226, 226.3, 226.7, 500, 510, 511, 512, 558, 860, 1174, 1174.5, 1194,
22 1197, and 1198, and applicable Industrial Welfare Commission Wage Orders during the time period
23 from and including August 20, 2019 to December 31, 2023 (the “Released Claims”).

24 The Parties further agree to release any and all claims for costs, fees, and interest related to
25 the Released Claims that have been incurred in this action by them except to the extent recovered as
26 part of this Settlement Agreement. The Parties further agree that pursuant to this Agreement a
27 judgment entered by the Court following approval of this settlement is intended forever bar Plaintiff,
28

1 and the LWDA (on behalf of the PAGA Group) directly or through any other proxy or agent, from
2 any future prosecution of any of the Released Claims against any of the Released Parties.

3 **C. ENHANCEMENT TO THE PLAINTIFF**

4 **i.** As part of this Agreement, Plaintiff's Counsel will request an individual
5 Enhancement -- also referred to as a Service Award -- for the Plaintiff in the amount of \$7,500. The
6 Service Award is to compensate the Plaintiff for his service and risk in connection with being the
7 Named Representative and for his general release of claims.

8 **ii.** Any Enhancement awarded by the Court will not be treated as wages. The
9 Plaintiff will receive an individual Form 1099 relating to such payment. The Enhancement will not
10 count as earnings or compensation for purposes of any benefit plans (e.g., 401(k) plan, retirement
11 plan, etc.) sponsored by Defendants.

12 **iii.** Defendants and their counsel will not object to a request for approval of such
13 Enhancement, provided the requested Enhancement does not exceed \$7,500. Any portion of the
14 Enhancement not approved by the Court will be included in the Net Settlement Amount and
15 distributed to the PAGA Group.

16 **iv.** The Enhancement is in addition to the Individual Settlement Payment
17 allocated to the Plaintiff under this settlement. The Plaintiff agrees that he will not object to the
18 Settlement.

19 **v.** By operation of the Court's order granting approval to this settlement, the
20 Plaintiff, for himself, his marital community and his representatives, heirs, executors, administrators,
21 successors and assigns, fully, finally, and forever releases and discharges the Released Parties from
22 all claims, demands, actions, causes of action, suits, damages, penalties, losses, and expenses, of any
23 and every nature whatsoever, known or unknown that exist as of the date Plaintiff signs this
24 Agreement, as a result of actions or omissions by Released Parties, including, without limitation
25 claims for negligent or intentional tortious conduct, express or implied contract, covenants of fair
26 dealing and good faith, wrongful discharge, unpaid wages, unlawful discrimination, harassment, or
27 failure to accommodate and any other claims related to the terms and conditions of employment
28

1 including under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, Sections
2 1981 through 1988 of Title 42 of the United States Code, the Employee Retirement Income Security
3 Act, the Age Discrimination in Employment Act, the Family Medical Leave Act, the Americans
4 with Disabilities Act, the Pregnancy Discrimination Act, the Worker Adjustment Retraining and
5 Notification Act, the Equal Pay Act, 42 U.S.C. § 1395y(b)(3)(A) et seq., the Fair Labor Standards
6 Act, the National Labor Relations Act, the California Family Rights Act, the California Fair
7 Employment and Housing Act, the Unruh Civil Rights Act, the Ralph Civil Rights Act, the
8 California Fair Chance Act, the California Fair Pay Act, the California Healthy Workplaces, Healthy
9 Families Act, the California CROWN Act, the California Labor Code and any amendments to the
10 foregoing, or any other federal, state or local statute, rule, ordinance, or regulation, or other public
11 policy, contract, tort or common law theory, and any statutory or common law principle allowing
12 for the recovery of attorneys' fees, costs or other expenses. Plaintiff's release set forth herein
13 includes a waiver of all rights under California Civil Code § 1542 waiver, which provides:

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

19 Plaintiff may hereafter discover claims or facts in addition to, or different from, those which he now
20 knows or believes to exist, but Plaintiff expressly agrees to fully, finally, and forever settle and
21 release any and all claims against the Released Parties, known or unknown, suspected or
22 unsuspected, which exist or may exist on behalf of or against the Released Parties at the time he signs
23 this Agreement, including, but not limited to, any and all claims relating to or arising from Plaintiff's
24 employment with Defendants, provided, however, that nothing in this Release is intended to be a
25 waiver by Plaintiff of claims Plaintiff may have against the Released Parties (a) for unemployment
26 or workers' compensation benefits; (b) for vested rights under ERISA-covered employee benefit
27 plans as applicable on the date Plaintiff signs this Agreement; (c) claims that cannot be released by
28

1 private agreement, or (d) claims that arise after Plaintiff signs this Agreement.

2 **VII. SETTLEMENT ADMINISTRATOR**

3 Plaintiff and Defendants, through their respective counsel, have selected ILYM Group as the
4 Settlement Administrator to administer the settlement, which includes but is not limited to
5 distributing and responding to inquiries about the Notice of Settlement and calculating all amounts
6 to be paid from the Settlement Amount, including the Individual Settlement Payments. The
7 Administrative Costs are estimated to be no more than Fifteen Thousand Dollars (\$15,000), and will
8 be paid from the Settlement Amount. Any charges and expenses of the Settlement Administrator
9 greater than the allocated Fifteen Thousand Dollars (\$15,000) will come from the Settlement
10 Amount. If the actual Administrative Costs are less than the Parties' estimation, the difference
11 between the actual and estimated Administrative Costs will be included in the Net Settlement
12 Amount.

13 **VIII. NOTICE**

14 A. Plaintiff and Defendants, through their respective attorneys, have jointly prepared a
15 Notice of Settlement (the "Notice"), in the form attached hereto as **Exhibit "A"**, which will be
16 provided to the members of the PAGA Group with their Individual Settlement Payment as follows:

17 As soon as practicable following approval of this Settlement Agreement, but no later than 15
18 calendar days after the Court approves the settlement, Defendants will provide to the Settlement
19 Administrator the following information about each PAGA Group member: (1) name; (2) last known
20 home address; (3) number of pay periods as a PAGA Group member during the PAGA Release
21 Period; and (4) social security number (collectively referred to as the "PAGA List").

22 The Settlement Administrator shall run all the addresses provided by Defendants through the
23 United States Postal Service NCOA database (which provides updated addresses for any individual
24 who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding
25 address) to obtain current address information. Within fourteen (14) calendar days after the
26 Settlement Administrator's receipt of the PAGA List, the Settlement Administrator will mail the
27 Notice together with the Individual Settlement Payments to all PAGA Group members by first-class
28

1 United States mail, postage prepaid, with directions to the Postmaster to forward the Notice and
2 return all undeliverable Notices to the Settlement Administrator. For each Notice and Individual
3 Settlement Payment that is returned as undeliverable, the Settlement Administrator shall promptly
4 attempt to locate the PAGA Group member by performing an additional skip trace and shall re-mail
5 the Notice and Individual Settlement Payment no later than 10 calendar days following receipt of
6 the undeliverable Notice. The Notice will be provided in English and Spanish.

7 **B.** The PAGA List, and any other data provided by Defendants to the Settlement
8 Administrator, shall be treated as confidential and shall not be used by the Settlement Administrator
9 for any purpose other than as permitted by this Agreement. Further, the Settlement Administrator
10 shall use commercially reasonable efforts to secure the data provided by Defendants at all times so
11 as to avoid inadvertent or unauthorized disclosure or use of such data other than as permitted by this
12 Agreement. At no time during the Settlement process will any PAGA Group member's address or
13 full social security number be filed with the Court, except under seal as may be ordered by the Court.
14 The Settlement Administrator shall ensure that the Notice and any other communications with the
15 PAGA Group shall not include the PAGA Group's social security number, except for the last four
16 digits.

17 **IX. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

18 **A. Distribution Formula.**

19 The portion of the Net Settlement Amount to be distributed to the PAGA Group shall be
20 divided by the total number of full pay periods, with partial pay periods rounded up to the next whole
21 number, as determined by Defendants' records, for all times during the PAGA Release Period which
22 the PAGA Group worked for Defendants. This amount shall be known as the "Pay Period Value."
23 Each member of the PAGA Group shall be paid an amount equal to the number of individual pay
24 periods he or she worked for Defendants during the PAGA Release Period multiplied by the Pay
25 Period Value. PAGA Group members may not object or opt out of this Settlement.

26 **B. Funding of the Settlement Amount.**

27 The funding of the Settlement Amount by Defendants will be completed at one time with
28

1 funds provided to and escrowed by the Settlement Administrator. The Settlement Amount shall be
2 paid to the Settlement Administrator by Defendants for deposit into the QSF within 30 calendar days
3 of its receipt of a notice of entry of the Court's approval order regarding this Settlement Agreement
4 ("Funding Date"). Any interest accrued will be added to the Net Settlement Amount and distributed
5 to the PAGA Group except that if approval of this settlement is reversed, then Defendants are entitled
6 to prompt return of the principal and all interest accrued.

7 **C. Mailing of Individual Settlement Amounts.**

8 The Settlement Administrator shall cause the Court approved Individual Settlement
9 Payments to be paid within fourteen (14) days of the funding of the Settlement Amount.

10 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
11 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
12 search and, if another address is identified, shall mail the check to the newly identified address. If
13 the Settlement Administrator is unable to obtain a valid mailing address through this process, after
14 the check void date, the monies represented by the check shall be turned over according to the
15 California State Controller for deposit in the Unclaimed Property Fund in the name of the PAGA
16 Group member to whom the uncashed Individual Settlement Payment was drafted.

17 Settlement checks will specifically indicate that they are void if not negotiated within 180
18 days of their issuance. Any settlement checks that remain uncashed 180 or more calendar days after
19 issuance by the Settlement Administrator shall be voided and the Settlement Administrator will remit
20 the entire amount of each PAGA Group member's uncashed Individual Settlement Payment to the
21 California State Controller for deposit in the Unclaimed Property Fund in the name of the PAGA
22 Group member to whom the uncashed Individual Settlement Payment was drafted.

23 **D. Time for Distribution of the Enhancements to Plaintiff, Attorneys' Fees and**
24 **Litigation Costs to Plaintiff's Counsel, the LWDA Payment and Administrative Costs.**

25 The Settlement Administrator shall cause the Court approved Enhancement to Plaintiff,
26 attorneys' fees and litigation costs awarded to Plaintiff's Counsel, and the LWDA Payment to be
27 paid within fourteen (14) days of the funding of the Settlement Amount. The Settlement
28

1 Administrator may pay itself the Court-approved administrative costs once the Individual Settlement
2 Payments have been mailed out.

3 The Settlement Administrator shall transmit the LWDA Payment to the LWDA as one lump
4 sum payment, within fourteen (14) calendar days of the Funding Date, and at the same time it
5 disburses the Individual Settlement Payments.

6 **X. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

7 The amounts paid under this Agreement do not represent a modification of any previously
8 credited hours of service under any employee benefit plan, policy or bonus program sponsored by
9 Defendants. Such amounts will not form the basis for additional contributions to, benefits under, or
10 any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendants,
11 policies or bonus programs. Any payments made under the terms of this Agreement shall not be
12 applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other
13 form of compensation for the purposes of Defendants' benefit plan, policy or bonus program.
14 Defendants retain the right to modify the language of its benefit plans, policies and bonus programs
15 to effect this intent and to make clear that any amounts paid pursuant to this Agreement are not for
16 "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by
17 applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual or
18 any other purpose, and that additional contributions or benefits are not required by this Agreement.

19 **XI. PLAINTIFF'S COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS**

20 Defendants shall not oppose an application by Plaintiff's Counsel for, and Plaintiff's Counsel
21 shall not seek or receive an amount in excess of one-third of the Settlement Amount (which is Four
22 Hundred Thousand Dollars (\$400,000), for all past and future attorneys' fees necessary to prosecute,
23 settle and administer the Litigation and this Agreement. Additionally, Defendants shall not oppose
24 an application by Plaintiff's Counsel for reimbursement of all past and future litigation costs and
25 expenses necessary to prosecute, settle and administer the Litigation and this Agreement, which
26 Plaintiff's Counsel estimates shall not exceed Twenty-Five Thousand Dollars (\$25,000). Any
27 attorneys' fees or litigation costs awarded to Plaintiff's Counsel by the Court shall be deducted from
28

1 the Settlement Amount for the purpose of determining the Net Settlement Amount. This amount
2 shall include all attorneys' fees, litigation costs and expenses for which Plaintiff and Plaintiff's
3 Counsel could claim under any legal theory whatsoever. Should the Court approve a lesser
4 percentage or amount of fees and/or litigation costs than the amount that Plaintiff's Counsel
5 ultimately seeks, then the unapproved portion or portions shall revert to the Net Settlement Amount.
6 A reduction in attorneys' fees or costs awarded by the Court is not a basis for Plaintiff to void,
7 rescind, or terminate this Agreement. Plaintiff's Counsel shall be solely and legally responsible to
8 pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement
9 Administrator shall issue an IRS Form 1099 to Plaintiff's Counsel for the payments made pursuant
10 to this paragraph.

11 **XII. TAXATION AND ALLOCATION**

12 **A. Withholding.**

13 For withholding tax characterization purposes and payment of taxes, the Net Settlement
14 Amount shall be deemed and is allocated by the Parties as follows ("Net Settlement Allocation"):
15 100% as penalties. PAGA Group members may receive an IRS Form 1099 for their portion of the
16 settlement, if deemed required by the Settlement Administrator (in compliance with IRS guidelines).

17 **B. Tax Liability.**

18 The Parties make no representations as to the tax treatment or legal effect of the payments
19 called for, and PAGA Group members are not relying on any statement or representation by the
20 Parties in this regard. PAGA Group members will be responsible for the payment of any taxes and
21 penalties assessed on the Individual Settlement Payments and will be solely responsible for any
22 penalties or other obligations resulting from their personal tax reporting of Individual Settlement
23 Payments.

24 **C. Circular 230 Disclaimer.**

25 Each Party to this Agreement (for purposes of this section, the "acknowledging party" and
26 each Party to this Agreement other than the acknowledging party, an "other party") acknowledges
27 and agrees that: (1) no provision of this Agreement, and no written communication or disclosure
28

1 between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall
2 any such communication or disclosure constitute or be construed or be relied upon as, tax advice
3 within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as
4 amended).

5 **XIII. COURT APPROVAL**

6 This Agreement is contingent upon approval by the Court. Plaintiff and Defendants agree to
7 take all steps as may be reasonably necessary to secure approval of this Agreement, to the extent not
8 inconsistent with the terms of this Agreement, and will not take any action adverse to each other in
9 obtaining Court approval of this Agreement in all respects. Plaintiff's Counsel and Plaintiff shall use
10 best efforts to file with the Court a motion for settlement approval and entering judgment within
11 thirty (30) days following the execution of this Agreement. Plaintiff's Counsel will provide an
12 opportunity for Counsel for Defendants to review the motion for settlement approval, including the
13 order granting approval of the settlement before filing with the Court and Plaintiff's Counsel will
14 make changes to any such documents to the extent Plaintiff's Counsel deems them reasonable.. The
15 Parties and their counsel will cooperate with each other and use their best efforts to affect the Court's
16 approval of the motion for approval of the settlement.

17 **XIV. NOTICE OF SETTLEMENT TO LWDA**

18 In connection with the motion for settlement approval, Plaintiff's Counsel shall, within ten
19 (10) days after the entry of the judgment or order approving this Settlement, submit the order
20 approving the Settlement to the LWDA pursuant to California Labor Code section 2699(1)(3).

21 **XV. APPRISAL AND CERTIFICATION BY THE SETTLEMENT ADMINISTRATOR.**

22 The Settlement Administrator shall keep Plaintiff's Counsel and Defendants' Counsel
23 apprised of all distributions from the Settlement Amount. Upon completion of administration of the
24 Settlement, the Settlement Administrator shall provide written certification of such completion to
25 Plaintiff's Counsel and Defendants' Counsel. The Settlement Administrator shall also provide a
26 final accounting and declaration to be submitted to the Court addressing the amounts paid, number
27 of any uncashed checks and amount of funds form those uncashed checks.

1 **XVI. MISCELLANEOUS PROVISIONS**

2 **A. Stay of Litigation.**

3 Plaintiff and Defendants agree to the stay of all discovery in the Litigation, pending approval
4 of this Agreement by the Court.

5 **B. Interpretation of the Agreement.**

6 This Agreement constitutes the entire agreement between Plaintiff and Defendants. Except
7 as expressly provided herein, this Agreement has not been executed in reliance upon any other
8 written or oral representations or terms, and no such extrinsic oral or written representations or terms
9 shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree that this
10 Agreement is to be construed according to its terms and may not be varied or contradicted by
11 extrinsic evidence. This Agreement will be interpreted and enforced under the laws of the State of
12 California, both in its procedural and substantive aspects, without regard to its conflict of law's
13 provisions. Any claim arising out of or relating to this Agreement, or the subject matter hereof, will
14 be resolved solely and exclusively in the Superior Court of the State of California for the County of
15 Monterey, and Plaintiff and Defendants hereby consent to the personal jurisdiction of the Court over
16 them solely in connection therewith. Plaintiff, on his own behalf and as a proxy and representative
17 of the LWDA for the PAGA Group, and Defendants participated in the negotiation and drafting of
18 this Agreement and had available to them the advice and assistance of independent counsel. As
19 such, neither Plaintiff nor Defendants may claim that any ambiguity in this Agreement should be
20 construed against the other.

21 The terms and conditions of this Agreement constitute the exclusive and final understanding
22 and expression of all agreements between Plaintiff and Defendants with respect to the resolution of
23 the Litigation.

24 **C. Further Cooperation.**

25 Plaintiff and Defendants and their respective attorneys shall proceed diligently to prepare
26 and execute all documents, to seek approval of this Agreement from the Court, and to do all things
27 reasonably necessary or convenient to consummate this Agreement as expeditiously as possible.

1 **D. Counterparts.**

2 This Agreement may be executed in one or more actual or non-original counterparts, all of
3 which will be considered one and the same instrument and all of which will be considered duplicate
4 originals.

5 **E. Amendment or Modification.**

6 This Agreement may be amended or modified only by a written instrument signed by counsel
7 for all Parties or their successor-in-interest.

8 **F. Authorization to Enter into Settlement Agreement.**

9 Counsel for all Parties warrant and represent they are expressly authorized by the Parties
10 whom they represent to negotiate this Agreement and to take all appropriate Action required or
11 permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to
12 execute any other documents required to effectuate the terms of this Agreement. The persons signing
13 this Agreement on behalf of Defendants represent and warrant that he/she is authorized to sign this
14 Agreement on behalf of Defendants. Plaintiff represents and warrants that he is authorized to sign
15 this Agreement and that he has not assigned any claim, or part of a claim, covered by this Settlement
16 to a third-party.

17 **G. Successors and Assigns.**

18 This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns
19 of the Parties, as previously defined.

20 **H. No Third-Party Beneficiaries.**

21 Plaintiff, members of the PAGA Group, the State of California, Defendants and Released
22 Parties are direct beneficiaries of this Agreement. The Parties are not aware of any third-party
23 beneficiaries.

24 **I. Deadlines Falling on Weekends or Holidays.**

25 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
26 legal holiday, that deadline shall be continued until the following business day.

27 **J. No Publicity.**

1 The Parties and their Counsel agree that they will not issue any press releases, initiate any
2 contact with the press, respond to any press inquiry, or have any communication with the press about
3 the fact, amount, or terms of the Settlement Agreement. However, following filing of the Motion for
4 Approval of the PAGA Settlement, Plaintiffs' Counsel may list the settlement on its websites, as
5 long as the disclosure does not identify Defendants by name or by industry and does not link to the
6 settlement agreement or publicly available records which would identify Defendants by name.
7 Nothing herein will restrict Plaintiff's Counsel from including publicly available information
8 regarding this settlement in future judicial submissions regarding Plaintiff's Counsel's qualifications
9 and experience, including in support of a motion for appointment as class counsel/PAGA
10 representative counsel or motion for attorneys' fees in another action. This provision shall also not
11 prohibit Plaintiff's Counsel from responding to specific questions from aggrieved employees of the
12 PAGA Group. Nothing herein shall be interpreted as preventing any good-faith communications
13 by any Counsel and/or any Parties with the Court, the PAGA Group, or the Settlement Administrator.

14 **K. Severability.**

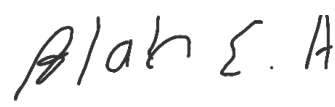
15 In the event that any one or more of the provisions contained in this Agreement shall for any
16 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
17 unenforceability shall in no way effect any other provision if Defense Counsel and Plaintiff's
18 Counsel, on behalf of the Parties, mutually elect in writing to proceed as if such invalid, illegal, or
19 unenforceable provision had never been included in this Agreement.

20 **L. Defendants' Fees and Costs**

21 All of Defendants' own legal fees, costs and expenses incurred in this Litigation shall be
22 borne by Defendants.

23 **APPROVED AS TO CONTENT AND FORM:**

24 DATED: January 26, 2024

25 
26 By: _____
27 Alan Elizalde
28

1 DATED: January 17, 2024

SECO PACKING II LLC
MISSION RANCHES HOLDINGS LLC

2
3
4 By: _____

John Mazzei, General
Counsel _____

5
6
7 **APPROVED AS TO FORM:**

8 DATED: January 17, 2024

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

9
10
11 By: _____

MICHAEL D. WILSON
ANDREW B. LEVIN

12
13 Attorneys for Defendants SECO Packing II LLC
and Mission Ranches Holdings, LLC

14
15 DATED: January 17, 2024

BISNAR CHASE

16 ALPERS LAW GROUP, INC

17
18 By: _____

Ian M. Silvers
IAN SILVERS
RICHARD C. ALPERS

19
20 Attorneys for Plaintiff Alan Elizalde, on behalf of
21 himself, all others similarly situated, and the
22 general public

EXHIBIT A

**NOTICE OF SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS
(CAL. LABOR CODE §§ 2698, *ET SEQ.*)**

You have been identified as an hourly, non-exempt employee who worked for SECO Packing II (“SECO”) or Mission Ranches Holdings LLC (“Mission Ranches”) (collectively, “Defendants”) in California between August 20, 2019 and December 31, 2023, inclusive (“Covered Employee”).

On April 20, 2021, Alan Elizalde (“Plaintiff”) filed a complaint in Monterey County Superior Court (the “Court”) to recover civil penalties pursuant to the California Labor Code Private Attorneys General Act of 2004, codified at Labor Code §§ 2698, *et seq.* (“PAGA”). The lawsuit alleges that Covered Employees were, among other things, not paid for all work and were not provided proper meal periods or rest breaks.

SECO and Mission Ranches deny all of Plaintiff’s allegations and dispute all of Plaintiff’s claims.

Plaintiff and Defendants reached a settlement of the claims for PAGA civil penalties alleged in the lawsuit. The settlement releases and discharges all PAGA claims for civil penalties alleged in the lawsuit, and all PAGA claims that could have been alleged in the lawsuit based upon the claims or facts alleged, including PAGA claims based on alleged violations of California Labor Code sections 201, 202, 203, 204, 204b, 205, 210, 216, 223, 225.5, 226, 226.3, 226.7, 500, 510, 511, 512, 558, 860, 1174, 1174.5, 1194, 1197, and 1198, and applicable Industrial Welfare Commission Wage Orders with respect to Covered Employees between August 20, 2019 and December 31, 2023. The claims released do not include any claim by any individual for an alleged violation of the California Labor Code that does not arise under PAGA.

The Court has not issued any decisions as to whether the claims have any merit. However, a settlement agreement was reached and a third-party settlement administrator, ILYM Group, has been directed to send you the enclosed payment as part of the settlement agreement.

Pursuant to the settlement agreement, the amount to be distributed to the Covered Employees shall be divided by the total number of full pay periods, with partial pay periods rounded up to the next whole number, as determined by Defendants’ records, worked by all Covered Employees between August 20, 2019 and December 31, 2023, inclusive. This amount shall be known as the “Pay Period Value.” Each Covered Employee shall be paid an amount equal to the number of individual pay periods he or she worked for Defendant between August 20, 2019 and December 31, 2023, inclusive, multiplied by the Pay Period Value. Your Individual Settlement Payment is provided with this Notice.

Please Note: The payment under this settlement may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences of your individual payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended). Enclosed are the appropriate tax forms pertaining to your payment.

You do not need to take any action. The enclosed payment concludes your involvement in the settlement agreement. However, if you have any questions or would like a copy of the settlement agreement approved by the Court, please contact the Settlement Administrator at . Please do not contact the Court, Plaintiff's counsel or Defendants' counsel.