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and on behalf of all others similarly situated

[Additional counsel listed on following page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

JON THEADORE, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

BLOMMER CHOCOLATE COMPANY; and
DOES 1 through 20, inclusive,

Defendants.

Case No. RG21089219

Assigned for all purposes to:
Hon. Brad Seligman
Dept. 23

JOINT STIPULATION OF SETTLEMENT

HOLLAND & KNIGHT LLP

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Attorneys for Defendant

BLOMMER CHOCOLATE COMPANY

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiff Jon Theadore (“Named Plaintiff”)
7 and the Class Members, on the one hand, and Defendant Blommer Chocolate Company (“Blommer”
8 or “Defendant”), on the other hand. Named Plaintiff and Defendant collectively are referred to in this
9 Agreement as “the Parties.”

10 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
11 concluded by agreement of Defendant to pay the settlement amount of One Million Four Hundred
12 Thousand Dollars (\$1,400,000.00) as provided in Section 3.06(a) below (“Gross Settlement
13 Amount”) pursuant to the terms and conditions of this Agreement and for the consideration set forth
14 herein, including but not limited to, a release of all claims by Named Plaintiff and the Class Members
15 as set forth herein.

16 **ARTICLE I**

17 **DEFINITIONS**

18 Unless otherwise defined herein, the following terms used in this Agreement shall have the
19 meanings ascribed to them as set forth below:

20 a. “Action” means the action described as follows: *Jon Theadore, individually and on*
21 *behalf of all others similarly situated v. Blommer Chocolate Company; and DOES 1 through 20,*
22 *inclusive,”* Case No. RG21089219, commenced on February 16, 2021, in the Superior Court of the
23 State of California for the County of Alameda.

24 b. “Agreement” means this Joint Stipulation of Settlement, including the attached
25 Exhibit(s).

26 c. “Class” means all hourly, non-exempt individuals who are or previously were
27 employed by Defendant in California during the Class Period.

28 d. “Class Counsel” means the attorneys for the Class and the Class Members, who are:

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e. “Class List” means a list based on Defendant’s business records that identifies each Class Member’s name, last known home or mailing address, Social Security number or, as applicable, other taxpayer identification number, dates of employment, and the number of Qualifying Workweeks worked during the Class Period.

f. “Class Member(s)” means all members of the Class.

g. “Class Period” means August 18, 2016 through June 30, 2022.

h. “Court” means the California Superior Court for the County of Alameda, where the Action is currently pending.

i. “Effective Date” means the later of the following: (a) if no timely objections are filed or if all objections are withdrawn, the date upon which the Court enters the Final Approval Order; (b) if an objection is filed and not withdrawn, the date for filing an appeal and no such appeal being filed; and (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the terms of the settlement.

j. “Defendant” means Defendant Blommer Chocolate Company.

k. “Defense Counsel” means counsel for Defendant:

HOLLAND & KNIGHT LLP
Christina T. Tellado
Samuel J. Stone
400 South Hope Street, 8th Floor
Los Angeles, California 90071
Telephone: 213.896.2400
Fax No.: 213.896.2450

l. “Disposition” means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

1 m. "Final Order Approving Settlement of Class Action" or "Final Order" means the final
2 formal court order signed by the Court following the Final Fairness and Approval Hearing in
3 accordance with the terms herein, approving this Agreement.

4 n. "Gross Settlement Amount" means One Million Four Hundred Thousand Dollars and
5 Zero Cents (\$1,400,000.00) to be paid by Defendant as provided by this Agreement to settle this
6 Action. All payments to the Class, administration costs, attorney's fees and costs, and Incentive
7 Award, pursuant to Section 3.07(a) below, shall be paid out of the Gross Settlement Amount. The
8 employer's share of payroll taxes arising from the payments made under this settlement shall be paid
9 by Defendant separate from and in addition to the Gross Settlement Amount. No part of the Gross
10 Settlement Amount shall revert to Defendant.

11 o. "Incentive Award" means a monetary amount of up to Five Thousand Dollars
12 (\$5,000.00) for the Named Plaintiff, subject to Court approval, in recognition of his effort and work
13 in prosecuting the Action on behalf of Class Members.

14 p. "Individual Settlement Payment(s)" means each Participating Class Member's
15 respective share of the Net Settlement Amount. Individual Settlement Payments will be determined
16 by the calculations provided in this Agreement.

17 q. "LWDA" means The State of California Labor and Workforce Development Agency.

18 r. "LWDA Payment" means 75% of the \$50,000 allocated to the settlement of PAGA
19 claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.07(e) of
20 this Agreement, as provided for below.

21 s. "Motion for Final Approval" means Plaintiff's submission of a written motion,
22 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
23 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
24 to enter a Final Order in this Action.

25 t. "Motion for Preliminary Approval" means Plaintiff's submission of a written motion,
26 including any evidence as may be required for the Court to grant preliminary approval of the
27 Settlement as required by Rule 3.769 of the California Rules of Court.

28 u. "Named Plaintiff" means Jon Theadore.

1 v. “Net Settlement Amount” means the Gross Settlement Amount less Court-approved
2 administration costs, Class Counsels’ attorney’s fees and costs, Incentive Award, and LWDA
3 Payment, pursuant to Section 3.07(a)-(f) below.

4 w. “Non-Participating Class Member(s)” means any Class Member(s) who submit to the
5 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
6 to Section 3.04(b) below.

7 x. “Notice Packet” means the Notice of Proposed Class Action Settlement in a form
8 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

9 y. “PAGA” means the California Private Attorneys General Act of 2004, which is
10 codified in California Labor Code §§ 2698 *et seq.*

11 z. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount
12 allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties have
13 agreed that the PAGA Settlement Amount is Fifty Thousand Dollars (\$50,000), subject to Court
14 approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the
15 remaining 25% will be added to the Net Settlement Amount and distributed to PAGA Group
16 Members.

17 aa. “PAGA Group Members” means all Class Members employed by Defendant at any
18 time between February 12, 2020 through June 30, 2022 (“PAGA Period”).

19 bb. “Participating Class Member(s)” is defined as a Class Member who does not timely
20 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net
21 Settlement Amount automatically without the need to return a claim form. Each Participating Class
22 Member will be paid his/her Individual Settlement Payment.

23 cc. “Preliminary Approval Date” means the date the Court preliminarily approves the
24 Settlement embodied in this Agreement.

25 dd. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury
26 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
27 Administrator for the benefit of Participating Class Members.
28

1 ee. "Qualifying Workweeks" means the number of weeks that Class Members worked
2 for Defendant as hourly non-exempt employees during the Class Period.

3 ff. "Released Parties" means Defendant's past and present corporate affiliates,
4 subsidiaries, divisions, related entities, divested businesses and business units, and the board
5 members, officers, employees, agents, representatives, insurers and attorneys of any of the same.

6 gg. "Response Deadline" means the deadline by which Class Members must postmark or
7 fax to the Settlement Administrator requests for exclusion or written notices of objection. The
8 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by
9 the Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal
10 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
11 Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-
12 mailing.

13 hh. "Settlement Administration Costs" means all costs incurred by the Settlement
14 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to
15 the class, calculation of Individual Settlement Payments, generation of Individual Settlement
16 Payment checks and related tax reporting forms, administration of unclaimed checks, and generation
17 of checks to Class Counsel for attorneys' fees and costs, to Named Plaintiff for his Incentive Award,
18 and to the LWDA. The Settlement Administration Costs shall be paid from the Gross Settlement
19 Amount.

20 ii. "Settlement Administrator" means Phoenix Administration which the Parties have
21 agreed will be responsible for the administration of the Individual Settlement Payments to be made
22 by Defendant from the Gross Settlement Amount and related matters under this Agreement.

23 **ARTICLE II**

24 **CONTINGENT NATURE OF THE AGREEMENT**

25 **Section 2.01: Stipulation of Class Certification for Settlement Purposes**

26 Because the Parties have stipulated to the certification of the Class with respect to all causes
27 of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and
28 final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis.

1 This Agreement is contingent upon the approval and certification by the Court. If the Effective Date
2 does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement
3 to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification
4 of the Class with respect to all causes of action alleged in the Action. Defendant does not consent to
5 certification of the Class for any purpose other than to effectuate settlement of the Action. If the
6 Effective Date does not occur, or if Disposition of this Action is not effectuated, any certification of
7 the Class as to Defendant will be vacated and Named Plaintiff, Defendant, and the Class will be
8 returned to their positions with respect to the Action as if the Agreement had not been entered into.
9 In the event that the Effective Date does not occur: (a) any Court orders preliminarily or finally
10 approving certification of any class contemplated by this Agreement shall be null, void, and vacated,
11 and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement
12 reflected in this Agreement, the fact that Defendant did not oppose the certification of a Class under
13 this Agreement, or that the Court preliminarily approved the certification of the Class, shall not be
14 used or cited thereafter by any person or entity, including in any manner whatsoever, including
15 without limitation any contested proceeding relating to the certification of any class. If the Effective
16 Date does not occur, this Agreement shall be deemed null and void, shall be of no force or effect
17 whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly
18 reserves the right to challenge the propriety of class certification in the Action for any purpose, if the
19 Effective Date does not occur.

20 The Parties and their respective counsel shall take all steps that may be requested by the Court
21 relating to the approval and implementation of this Agreement and shall otherwise use their
22 respective best efforts to obtain Court approval and implement this Agreement. If the Court does not
23 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree
24 to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a
25 resolution, the Parties agree to seek the assistance of mediator Jeffrey A. Ross to resolve the dispute.

26 **ARTICLE III**

27 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

28 The procedure for obtaining Court approval of and implementing this Agreement shall be as

1 follows:

2 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

3 Named Plaintiff will bring a motion before the Court for an order conditionally certifying the
4 Class to include all claims pled in the Action based on the preliminary approval of this Agreement.
5 The date that the Court grants preliminary approval of this Agreement will be the “Preliminary
6 Approval Date.”

7 **Section 3.02: The Settlement Administrator**

8 The Parties have chosen Phoenix Administration to administer this Settlement and to act as
9 the Settlement Administrator, including but not limited to distributing and responding to inquiries
10 about the Notice Packet, determining the validity of exclusions/opt-outs, calculating the Net
11 Settlement Amount and the Individual Settlement Payments, issuing the Individual Settlement
12 Payment checks and distributing them to Participating Class Members, establishing and maintaining
13 the QSF, and issuing the payment to Class Counsel for attorneys’ fees and costs, the Incentive Award
14 check to Named Plaintiff, and the employer payroll taxes to the appropriate taxing authorities. The
15 Settlement Administrator shall expressly agree to all of the terms and conditions of this Agreement.

16 All costs of administering the Settlement, including but not limited to all costs and fees
17 associated with preparing, issuing and mailing any and all notices to Class Members and/or
18 Participating Class Members, all costs and fees associated with computing, processing, reviewing,
19 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax
20 returns and any other filings required by any governmental taxing authority or agency, all costs and
21 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the
22 course of administering disbursements from the Net Settlement Amount, and any other costs and fees
23 incurred and/or charged by the Settlement Administrator in connection with the execution of its
24 duties under this Agreement (“Settlement Administration Costs”), shall be paid to the Settlement
25 Administrator from the Gross Settlement Amount.

26 **Section 3.03: Notice to Class Members**

27 No later than five (5) business days after the Preliminary Approval Date, Defendant will
28 provide the Settlement Administrator with a “Class List” in electronic format based on its business

1 records, identifying the names of the Class Members, their last known home addresses, Social
2 Security numbers or, as applicable, other taxpayer identification number, their dates of employment
3 and weeks worked during the Class Period.

4 Within ten (10) business days of receiving a Class List from Defendant, the Settlement
5 Administrator will send Class Members, by first-class mail, at their last known address, the Court
6 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
7 Settlement Class. The Notice Packet will include a calculation of the Class Member's approximate
8 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of
9 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the
10 Settlement Administrator will check all Class Member addresses against the National Change of
11 Address database and shall update any addresses before mailing. The Settlement Administrator will
12 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
13 Notice Packet was undeliverable. If a Class Member's notice is re-mailed, the Class Member shall
14 have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from the date of the
15 initial mailing, whichever is later, in which to postmark objections or requests for exclusion. Class
16 Members shall not be required to submit claim forms in order to receive a proportional share of the
17 Net Settlement Amount.

18 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
19 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose
20 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
21 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
22 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
23 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
24 that reasonable means be used to locate Class Members and that the Settlement Administrator be
25 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
26 Individual Settlement Payments to all Participating Class Members.

1 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
2 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
3 status report provided to the Parties.

4 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
5 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
6 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
7 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
8 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and
9 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
10 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
11 procedures set forth in Section 3.07(g) below.

12 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
13 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
14 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
15 for and re-sending of any returned Notice Packets, as well as the number of valid requests for
16 exclusion and objections that the Settlement Administrator received.

17 **Section 3.04: Responses to Notice**

18 **a. Class Member Disputes**

19 If any Class Member disagrees with Defendant's records as to his or her Qualifying
20 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set
21 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period
22 and submit such writing to the Settlement Administrator by the Response Deadline, along with any
23 supporting documentation. The Notice will also provide a method for the Class Member to challenge
24 the employment data on which his or her Individual Settlement Payment is based. The Settlement
25 Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith
26 to resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the
27 final arbiter of the Qualifying Workweeks for each Class Member during the Class Period based on
28 the information provided to it.

b. Requests for Exclusion from Class

In order for any Class Member to validly exclude himself or herself from the Class and this Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class Member or his or her authorized representative, and must be sent to the Settlement Administrator, postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall contain instructions on how to validly exclude himself or herself from the Class and this Settlement (*i.e.*, opt out), including the language to be used in a request for exclusion. The date of the initial mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be conclusively determined according to the records of the Settlement Administrator. Any Class Member who timely and validly requests exclusion from the Class and this Settlement will not be entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this Agreement, and will not have any right to object, appeal, or comment thereon.

Any Class Member who fails to timely submit a request for exclusion shall automatically be deemed a Class Member whose rights and claims with respect to the issues raised in the Action are determined by the Court's Final Order Approving Settlement of Class Action, and by the other rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action and/or released in this Agreement will be extinguished.

Plaintiff waives his right to request exclusion.

c. Objections to Settlement

For any Class Member to object to this Agreement, or any term of it, the person making the objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15) days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later), a written statement of the grounds of objection, signed by the objecting Class Member or his or her attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and the date the signed objection was postmarked, shall be conclusively determined according to the records of the Settlement Administrator. The Settlement Administrator shall send any objections it

receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class Members may also appear at the final approval hearing to object. The Court retains final authority with respect to the consideration and admissibility of any Class Member objections.

d. Encouragement of Class Members

The Parties to this Agreement and the counsel representing such Parties shall not, directly or indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from Class Members.

e. Workweek Information

It is currently estimated that there are approximately 327 Class Members who worked 35,891 pay periods between August 18, 2016 and March 2, 2022. The Gross Settlement Amount shall be consideration for, and apply to, the 35,891 pay periods between August 18, 2016 and March 2, 2022, plus an additional ten percent (10%) of pay periods, for a total not to exceed 39,481 workweeks for the Class Period commencing August 18, 2016 and ending no later than June 30, 2022.

Section 3.05: Final Fairness and Approval Hearing

On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement and determine whether the Court should give it final approval, and (2) consider any objections made and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a Proposed Final Order Approving Settlement of Class Action.

Section 3.06: Settlement Payment Procedures

a. Settlement Amount

In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount in the amount of One Million Four Hundred Thousand Dollars (\$1,400,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e). The Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class

Members, all administration costs, Class Counsel's attorney's fees and costs, PAGA Settlement Amount, and the Incentive Payments.

Within thirty (30) days of the Effective Date, Defendant shall transfer the Gross Settlement Amount plus Defendant's share of employer-side payroll taxes, as set forth herein, into a QSF established by the Settlement Administrator either directly or by sending the funds to the Settlement Administrator to be deposited and distributed. The Settlement Administrator will use these funds to fund payment of the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, the Incentive Award, the LWDA Payment, and the Settlement Administration Costs.

Within fifteen (15) days after receiving Defendant's final payment, funding the Gross Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the Incentive Award, and employer and employee tax withholdings applicable to the Net Settlement Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct for any known or identifiable address changes.

b. Payment of Attorneys' Fees and Costs

Class Counsel shall submit an application for an award of attorneys' fees of up to one-third of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is Four Hundred Sixty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$466,666.66). Class Counsel shall submit an application for an award of costs not to exceed Twenty-Five Thousand Dollars (\$25,000.00). Such application for attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval Hearing. Defendant shall not object to or oppose any such application in these amounts. Class Counsel shall serve Defendant with copies of all documents submitted in support of their application for an award of attorneys' fees and costs.

Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys' fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,

1 and expenses related to the investigation, prosecution, and settlement of the Action incurred through
2 the Effective Date. To the extent that the Court approves less than the amount of attorney's fees
3 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts
4 will be reallocated to the Net Settlement Amount.

5 **c. Payment of Settlement Administration Costs**

6 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
7 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed
8 Eight Thousand Five Hundred Dollars (\$8,500.00).

9 **d. Payment of Incentive Award to Named Plaintiff**

10 Subject to Court approval, the Named Plaintiff shall receive an Incentive Award of up to Five
11 Thousand Dollars (\$5,000.00), the request for which Defendant will not object to or oppose. The
12 Incentive Award shall be paid out of the Gross Settlement Amount and shall not constitute payment
13 to any Participating Class Member(s) other than Named Plaintiff. To the extent that the Court
14 approves less than the amount of incentive award that Class Counsel request, the difference between
15 the requested and awarded amounts will be reallocated to the Net Settlement Amount.

16 Because it is the intent of the Parties that the Incentive Award represents payment to Named
17 Plaintiff for his service to the Class Members, and not wages, the Settlement Administrator will not
18 withhold any taxes from the Incentive Award. The Incentive Award will be reported on a Form 1099,
19 which the Settlement Administrator will provide to Named Plaintiff and to the pertinent taxing
20 authorities as required by law.

21 **e. Payment to the Labor and Workforce Development Agency**

22 In consideration of claims made under PAGA, Class Counsel will request that the Court
23 approve allocation of Fifty Thousand Dollars (\$50,000) of the Gross Settlement Amount to these
24 claims. Seventy-five percent (75%) of this payment will be paid to the California Labor and
25 Workforce Development Agency ("LWDA Payment"), and twenty-five percent (25%) will be paid
26 to the Net Settlement Amount for distribution to PAGA Group Members. Defendant will not oppose
27 this request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount.
28

1 The Court's adjustment, if any, of the amount allocated to Named Plaintiff's PAGA claim in the
2 Action, will not invalidate this Agreement.

3 **f. Payment of Individual Settlement Payments to Participating Class Members**

4 The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement
5 Payments. The Parties agree that the Net Settlement Amount shall be divided between all
6 Participating Class Members in proportion to the number of individual Qualifying Workweeks for
7 each Class Member. To calculate the minimum amount each Class Member will receive based on
8 their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total
9 number of Qualifying Workweeks by all Class Members during the Class Period and then allocated
10 on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class
11 Member's approximate Individual Settlement Payment amount will be included in his or her Notice
12 Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to
13 Participating Class Members (those who did not exclude themselves) on a pro rata basis based on the
14 individual Qualifying Workweeks worked during the Class Period by each Participating Class
15 Member.

16 Each Individual Settlement Payment will represent wages and penalties allocated using the
17 following formula: 40% allocated to wages; 10% allocated to interest, and 50% allocated to penalties.
18 The amounts paid as wages shall be subject to all tax withholdings customarily made from an
19 employee's wages and all other authorized and required withholdings and shall be reported by W-2
20 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement
21 Amount. The amounts paid as penalties and interest shall be subject to all authorized and required
22 withholdings other than the tax withholdings customarily made from employees' wages and shall be
23 reported by IRS 1099 forms.

24 No later than fifteen (15) days after receiving the Gross Settlement Amount from Defendant,
25 the Settlement Administrator shall prepare and mail the checks for the Individual Settlement
26 Payments to Participating Class Members. Individual Settlement Payments paid from the Net
27 Settlement Amount allocated to wages will be reduced by applicable employer and employee tax
28 withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of the

Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the extent required by law for the interest and penalty portions of the Individual Settlement Payments. Participating Class Members shall have 180 days from the date their Individual Settlement Payment checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration of that 180-day time period will be void, and the uncashed funds shall be paid to Legal Aid at Work.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or a mass search on LexisNexis or a comparable databases based on set criteria and, if another address is identified, the Settlement Administrator shall mail the check to the newly identified address. If the Settlement Administrator is unable to obtain a valid mailing address through this process, the Settlement Administrator will tender the funds from the undeliverable checks to Legal Aid at Work.

g. Default on Payment.

Defendant's failure to fund the Gross Settlement Amount within ten (10) calendar days after the date that the Court grants final approval of the Settlement shall be considered a default. In the event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed payment. Thereafter, Defendant will have seven (7) days to cure the default and tender payment to the Settlement Administrator. In the event Defendant fails to cure the default within the times set forth herein, Named Plaintiff may elect to enter judgment against Defendant, on an ex parte basis, for the balance of the unpaid Gross Settlement Amount to date, and Named Plaintiff will be entitled to recover interest at ten percent (10%) per year from the due date for such payment and reasonable attorneys' fees and costs.

h. No Credit Toward Benefit Plans.

The Individual Settlement Payments made to Participating Class Members under this Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'

intention that this Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

ARTICLE IV

LIMITATIONS ON USE OF THIS SETTLEMENT

Section 4.01: No Admission

Defendant disputes the allegations in the Action and disputes that, but for this Settlement, a Class should not have been certified in the Action. This Agreement is entered into solely for the purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be construed as an admission of liability or wrongdoing by Defendant.

Section 4.02: Non-Evidentiary Use

Whether or not the Effective Date occurs, neither this Agreement, nor any of its terms, nor the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims released through this Agreement.

Section 4.03: Nullification

The Parties have agreed to the certification of the Class encompassing all claims alleged in the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had

1 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to
2 stipulate to class certification of all causes of action pled in the Action as part of the Settlement will
3 have no bearing on, and will not be admissible in connection with, the issue of whether the Class
4 should be certified by the Court in a non-settlement context in this Action or any other action, and in
5 any of those events, Defendant expressly reserves the right to oppose certification of the Class.

6 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
7 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

8 **Section 4.04: Defendant's Right to Void**

9 Defendant, at its sole discretion, shall have the right but not the obligation to revoke this
10 Agreement if twelve and one-half percent (12.5%) or more of Class elects to request exclusion from
11 the class and settlement. Defendant shall exercise its revocation rights, if at all, within seven (7)
12 business days of the end of the agreed upon opt out period by providing written notice of that
13 revocation to Theodore's counsel. In the event that Defendant exercises this option, it shall be solely
14 responsible for all administrative costs incurred to date.

15 **ARTICLE V**

16 **RELEASES**

17 **Section 5.01: Released Claims by Class Members**

18 Upon entry of final judgment and, in consideration for Defendant's promises and obligations
19 under this Agreement, the Defendant shall be entitled to a release from the State of California of all
20 PAGA claims pled or could have been pled based on the factual allegations contained in in the
21 Complaints filed in the Action and the written notice(s) sent to the Labor & Workforce Development
22 Agency pursuant to California Labor Code § 2699.3(a)(1) that occurred during the PAGA Period as
23 to the Aggrieved Employees, and a release from the Class Members who decline to request exclusion
24 from these Actions and settlement shall thereby release the Released Parties from all claims that were
25 or could have been alleged in the Complaints filed in the Actions under any state law, federal law,
26 common law, equity or other theory reasonably related to the facts alleged in the Complaints filed in
27 the Action regarding the provision (or alleged non-provision) of rest breaks, meal breaks, overtime,
28 minimum wage, waiting time penalties, and/or wage statements provided to those class members (or

1 the content or lack of content of any wage statements received), from August 18, 2016 through June
2 30, 2022, and the Released Claims as further defined below.

3 The Released Claims include all claims, rights, demands, liabilities, causes of action, and
4 theories of liability of every nature and description, whether known or unknown, that were alleged
5 against Defendant and/or any of the Released Parties, or which could have been alleged based on the
6 facts pled against them in the written notice sent to the Labor & Workforce Development Agency
7 pursuant to California Labor Code § 2699.3(a)(1) or the Complaints in the Actions. These claims
8 include claims for failure to provide and/or maintain copies of accurate itemized wage statements,
9 failure to provide timely and uninterrupted meal and rest breaks, failure to pay overtime, failure to
10 pay minimum wage, failure to properly calculate the regular rate of pay, failure to pay minimum
11 wage or overtime as applicable for all hours worked including but not limited to unpaid wages due
12 to inaccurate time rounding, time spent donning and doffing uniforms, on-call compensation, and
13 any and all off-the-clock work, failure to timely pay wages during employment in violation of Labor
14 Code section 204, and/or for penalties (regardless of the recipient), damages, interest, costs or
15 attorneys' fees, and violations of applicable local, state or federal law, whether for economic
16 damages, non-economic damages, liquidated, or punitive damages, restitution, tort, contract,
17 equitable relief, injunctive or declaratory relief, that occurred during the applicable Class Period and
18 reasonably related to the facts alleged in the written notice sent to the Labor & Workforce
19 Development Agency pursuant to California Labor Code § 2699.3(a)(1) or the Complaints in the
20 Actions, including claims under any common laws, the California Business & Professions Code
21 Sections 17200, et seq. ("UCL"), including claims asserted under the UCL predicated on violations
22 of any state and/or federal law alleged in the Complaints and/or Amended Complaints in the Action,
23 including the Cal. Code of Regulations, Title 8, Sections 11000, et seq., any applicable Wage Order,
24 the California Labor Code, and the California Private Attorneys General Act of 2004, Labor Code
25 Sections 2698, et seq. Notwithstanding the foregoing, the Released Claims do not include vested
26 benefits, wrongful termination, unemployment insurance, disability, social security, workers'
27 compensation, class claims outside of the Class Period, class claims not based on the facts alleged in
28 the Complaint and/or the written notice provided to the Labor & Workforce Development Agency

pursuant to California Labor Code § 2699.3, PAGA claims outside of the PAGA period, and any individual claim under the Section 16(b) of the FLSA, 29 U.S.C. § 216(b), as to a Class Member who does not opt-in to the Settlement by cashing, depositing or endorsing his or her Settlement Payment check, to the extent that opting-in is required to release such FLSA claims.

Section 5.03: Named Plaintiff's Release of Unknown Claims

In consideration for Defendant's promises and obligations under this Agreement, Plaintiff agrees to a general and comprehensive release of all of his respective known and unknown claims against Defendant's past and present corporate affiliates, subsidiaries, divisions, related entities, divested businesses and business units, and the board members, officers, employees, agents, representatives, insurers and attorneys of any of the same ("Released Parties"), including, without limitation, all claims that were or could have been alleged in the written notice sent to the Labor & Workforce Development Agency pursuant to California Labor Code § 2699.3(a)(1) and the Complaints and/or Amended Complaints in the Actions under any state law, federal law, common law, equity or other theory. As part of this release, Plaintiff further release all unknown claims against Defendant and any of the Released Parties, covered by California Civil Code Section 1542, which states: "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." Plaintiff understands that he is an individual, a "creditor" and "releasing party" within the meaning of Civil Code section 1542, and thereby expressly waives and relinquishes any and all rights and benefits under Section 1542 of the Civil Code of the State of California and under any statute, rule, or principle of common law or equity, of any jurisdiction, that is similar to Section 1542.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01: Amendments or Modification

The terms and provisions of this Agreement may be amended or modified only by an express written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel, and approved by the Court.

1 **Section 6.02: Assignment**

2 None of the rights, commitments, or obligations recognized under this Agreement may be
3 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
4 consent of each other Party and their respective counsel. The representations, warranties, covenants,
5 and agreements contained in this Agreement are for the sole benefit of the Parties under this
6 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

7 **Section 6.03: Governing Law**

8 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
9 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
10 of laws.

11 **Section 6.04: Entire Agreement**

12 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
13 contains the entire understanding of the Parties with respect to the subject matter contained herein.
14 In case of any conflict between text contained in Articles I through VI of this Agreement and text
15 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be
16 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
17 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
18 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
19 supersedes all prior agreements and understandings among the Parties with respect to the settlement
20 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of
21 prior agreements or proposals.

22 **Section 6.05: Waiver of Compliance**

23 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
24 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
25 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
26 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
27 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
28 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

1 **Section 6.06: Counterparts and Fax/PDF Signatures**

2 This Agreement, and any amendments hereto, may be executed in any number of counterparts
3 and any Party and/or their respective counsel may execute any such counterpart, each of which when
4 executed and delivered shall be deemed to be an original. All counterparts taken together shall
5 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
6 signature.

7 **Section 6.07: Meet and Confer Regarding Disputes**

8 Should any dispute arise among the Parties or their respective counsel regarding the
9 implementation or interpretation of this Agreement, a representative of Class Counsel and a
10 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
11 to submitting such disputes to the Court.

12 **Section 6.08: Agreement Binding on Successors**

13 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
14 of each of the Parties.

15 **Section 6.09: Cooperation in Drafting**

16 The Parties have cooperated in the negotiation and preparation of this Agreement. This
17 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
18 was the drafter or participated in the drafting of this Agreement.

19 **Section 6.10: Fair and Reasonable Settlement**

20 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
21 the Action and have arrived at this Agreement through arm's-length negotiation and in the context
22 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
23 further believe that the Settlement is and is consistent with public policy, and fully complies with
24 applicable law.

25 **Section 6.11: Headings**

26 The descriptive heading of any section or paragraph of this Agreement is inserted for
27 convenience of reference only and does not constitute a part of this Agreement and shall not be
28 considered in interpreting this Agreement.

1 **Section 6.12: Notice**

2 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
3 communications under this Agreement must be in writing and addressed as follows:

4 *To Named Plaintiff and the Class:*

5 Kashif Haque
6 Samuel A. Wong
7 Jessica L. Campbell
8 AEGIS LAW FIRM, PC
9 9811 Irvine Center Drive, Suite 100
 Irvine, California 92618
 Telephone: (949) 379-6250
 Facsimile: (949) 379-6251

10 And

11 *To Defendant:*

12 HOLLAND & KNIGHT LLP
13 Christina T. Tellado
14 Samuel J. Stone
15 400 South Hope Street, 8th Floor
16 Los Angeles, California 90071
 Telephone: 213.896.2400
 Fax No.: 213.896.2450

17 **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

18 To the extent consistent with class action procedure, this Agreement shall be enforceable by
19 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
20 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the
21 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the
22 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
23 retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest
24 extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more
25 of the Parties institutes any legal action or other proceeding against any other Party or Parties to
26 enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover
27 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
28 fees incurred in connection with any enforcement actions.

1 **Section 6.14: Mutual Full Cooperation**

2 The Parties agree fully to cooperate with each other to accomplish the terms of this
3 Agreement, including but not limited to the execution of such documents, and the taking of such
4 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties
5 to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its
6 terms. In the event the Parties are unable to reach agreement on the form or content of any document
7 needed to implement the Settlement, or on any supplemental provisions that may become necessary
8 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

9 **Section 6.15: Authorization to Act**

10 Class Counsel warrants and represents that they are authorized by Named Plaintiff, and
11 Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action
12 required to effectuate the terms of this Agreement, except for signing documents, including but not
13 limited to this Agreement, that are required to be signed by the Parties themselves. Defendant
14 represents and warrants that the individual executing this Agreement on its behalf has the full right,
15 power, and authority to enter into this Agreement and to carry out the transactions contemplated
16 herein.

17 **Section 6.16: No Reliance on Representations**

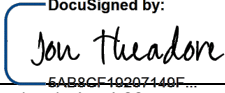
18 The Parties have made such investigation of the facts and the law pertaining to the matters
19 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
20 on any statement, promise, or representation of fact or law, made by any of the other parties, or any
21 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted
22 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect
23 to any other matters. No representations, warranties, or inducements, except as expressly set forth
24 herein, have been made to any party concerning this Agreement.

EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

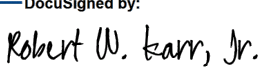
Dated: 12/2/2022 | 11:49 AM PST

JON THEADORE

By: 
6AB8CF40207440F...
Named Plaintiff

Dated: 11/25/2022 | 5:51:50 PM PST

BLOMMER CHOCOLATE COMPANY

By: 
847A9567463F4C9...
(Signature)

Robert W. Karr, Jr.
(Printed Name)

VP, Corp. Planning, CLO
(Title)

APPROVED AS TO FORM ONLY:

Dated: December 6, 2022

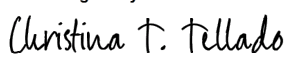
AEGIS LAW FIRM, PC

By: 
Samuel Wong
Jessica L. Campbell

Attorneys for Named Plaintiff Jon Theadore

Dated: 11/23/2022 | 3:49:18 PM EST

HOLLAND & KNIGHT LLP

By: 
1E15F68A1A87480...
Christina T. Tellado
Samuel J. Stone

Attorneys for Defendant Bloomer Chocolate Company

EXHIBIT A

THIS IS AN IMPORTANT COURT APPROVED NOTICE. READ CAREFULLY.

Jon Theadore v. Bloomer Chocolate Company, Alameda Superior Court, Case No. RG21089219

If you worked as an hourly or non-exempt employee in California for Bloomer Chocolate Company at any time from August 18, 2016, through June 30, 2022, a class action lawsuit may affect your rights.

This is a court-authorized notice. It is not a solicitation from a lawyer.

- You have been identified as a Class Member in a Lawsuit brought by a former employee of Bloomer Chocolate Company (“Defendant”).
- The Court has preliminarily approved a class action settlement with Defendant, which will affect all hourly or non-exempt employees employed by any Defendant in California at any time between August 18, 2016, through June 30, 2022.
- If the Court grants final approval of the Settlement, there will be money available to you.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
PARTICIPATE IN THE SETTLEMENT – <u>NO ACTION REQUIRED</u>	Stay in this Lawsuit. Receive a payment. Give up certain rights. By doing nothing, you become part of the Class and will collect a settlement award as detailed below. But you give up certain rights to sue Defendant separately for the legal claims raised in this Lawsuit.
OBJECT TO THE SETTLEMENT	Stay in this Lawsuit. May give up certain rights. If you object to the settlement, you will remain a member of the Class, and if the Court approves the settlement, you will be bound by the terms of the settlement in the same way as Class Members who do not object.
ASK TO BE EXCLUDED	Get out of this Lawsuit. Get no payment from it. Keep rights. If you ask to be excluded from the settlement, you won’t receive any payment from the settlement award. But you keep any rights to sue Defendant separately for the legal claims raised or that could have been raised in this Lawsuit.

- **Regardless of the option you choose, you will not be retaliated against for exercising your rights.**
- Your options are explained in this notice. To object to the settlement or to ask to be excluded, you must act before [DATE].
- **Any questions?** Read on or contact Class Counsel or the Settlement Administrator listed below.

BASIC INFORMATION

1. Why did I get this notice?

Defendant's records show that you currently work, or previously worked for Defendant(s) in California. This notice explains that the Court has given preliminary approval to a settlement in a conditionally certified class action lawsuit that may affect you.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the final hearing. You have legal rights and options that you may exercise as part of this settlement. Judge Brad Seligman of the Superior Court of the State of California, County of Alameda, is overseeing this lawsuit. The lawsuit is known as *Jon Theadore v. Blommer Chocolate Company*, Case No. RG21089219.

2. What is this lawsuit about?

This lawsuit is about whether Defendant(s) paid non-exempt employees minimum and overtime wages, provided proper meal periods and rest periods, paid all wages owed upon termination of employment, and provided proper wage statements as required by applicable California laws, including California's Unfair Competition Laws, and the California Private Attorneys General Act.

Throughout the litigation, Defendant has denied—and continues to deny—the factual and legal allegations in the case and have maintained that they have valid defenses to the claims. Defendant denies any wrongdoing and assert that their pay practices at all times complied with the law. Defendant further denies that they owe the monies claimed in the lawsuit. However, Defendant has voluntarily agreed to the terms of a negotiated settlement in order to avoid the burden and expense of continued litigation.

3. What is a class action and who is involved?

In a class action lawsuit such as this, a person called the "Class Representative" sues on behalf of other people who may have similar claims. The people together are a "Class" or "Class Members." The person who is the Class Representative is also called the Plaintiff. The companies sued are called the Defendant. In class action litigation, one Court resolves the issues for everyone in the Class in one lawsuit, except for those people who choose to exclude themselves from the Class.

4. Why is this Lawsuit a class action?

As part of the settlement, Plaintiff and Defendant agreed to conditionally certify the Class with respect to all of the claims Plaintiff alleged against Defendant as a class action, for settlement purposes only and to ask the Court to approve the settlement. The Court has not ruled on the merits of these claims, and the decision to certify the agreed-upon Class for settlement purposes should not be viewed as a prediction or agreement that Plaintiff or the Class would ultimately prevail on the merits of the action.

5. What are the terms of the proposed Settlement?

The major terms of the settlement are as follows:

1. Defendant has agreed to pay \$1,400,000.00 to settle the claims made in this lawsuit. This amount is also known as the “Gross Settlement Amount”.
2. Plaintiff Jon Theadore has agreed to release all of his claims in this lawsuit against Defendant.
3. Plaintiff seeks the following deductions from the \$1,400,000.00 Gross Settlement Amount:
 - a. Up to one-third (1/3) of the Gross Settlement Amount (currently equal to \$466,666.66) for Class Counsel’s attorneys’ fees.
 - b. Up to \$25,000.00 for reimbursement of Class Counsel’s litigation costs.
 - c. An Incentive Award of up to \$5,000.00 to Plaintiff for filing the Lawsuit, performing work in connection with the Lawsuit, and undertaking the risks of filing the Lawsuit.
 - d. Up to \$8,500.00 to cover the costs of the Settlement Administrator.
 - e. Payment of \$37,500.00 to the California Labor and Workforce Development Agency for release of Private Attorneys General Act claims.

If the Court approves each of the requested deductions from the Gross Settlement Amount, the Parties estimate there will be approximately \$857,333.34 remaining before deducting for taxes. The remaining funds will be referred to as the “Net Settlement Amount.” The Net Settlement Amount will be distributed to Class Members who do not request exclusion (the “Participating Class Members”) according to the following formula:

The Net Settlement Amount shall be divided between all Participating Class Members in proportion to the number of individual Qualifying Workweeks for each Class Member. To calculate the minimum amount each Class Member will receive based on their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total number of Qualifying Workweeks by all Class Members during the Class Period and then allocated on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer.

Your estimated Individual Settlement Payment is listed in Section 8 of this Notice. Each Individual Settlement Payment will represent wages and penalties allocated using the following formula: 40% allocated to wages, 50% allocated to penalties, and 10% allocated to interest.

WHO IS IN THE CLASS?

6. Am I part of this Class?

The “Class” includes: All persons who are or have been employed by Defendant as hourly or non-exempt employees in California at any time between August 18, 2016 and June 30, 2022 (the “Class Period”).

7. I'm still not sure if I am included.

If you still are not sure whether you are included in the Class, you can get free help by contacting Phoenix Administration, the "Settlement Administrator", at the designated phone number for this matter at [REDACTED] or by calling or writing the lawyers representing the Class in this case ("Class Counsel"), at the phone number or address listed in Section 19.

YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class, or ask to be excluded from the settlement. These options are further explained below, including any dates by which you need to take any actions.

8. What is my approximate Individual Settlement Payment?

According to payroll records maintained by Defendant, the total number of weeks you worked in California for Defendant(s) as a non-exempt employee during the Class Period is [REDACTED].

Based on information provided above, anticipated court-approved deductions, and preliminary calculations of Qualifying Workweeks, it is estimated your share of the settlement will be \$[REDACTED], less applicable taxes and withholdings.

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 16, below, of any changes to your mailing address for timely payment.

Settlement Payment checks returned as undeliverable and unclaimed and uncashed 180 days after issuance and delivered checks remaining uncashed for more than 180 days after issuance will be void. The uncashed funds shall be paid to a charity called Legal Aid at Work.

Disputing Your Payment Amount

If you believe your total weeks worked during the Class Period shown above are not correct, you may send a letter to the Settlement Administrator indicating what you believe is correct. You should also send any documents or other information that supports your belief that the information set forth above is incorrect. The Settlement Administrator will attempt to resolve any dispute based upon Defendant's records and any information you provide. Any disputes not otherwise resolved by the Settlement Administrator will be resolved by the Court. Any such dispute must be mailed to the Settlement Administrator no later than [DATE].

9. What rights am I releasing if I participate in the Settlement?

If the Court grants final approval of the Settlement and you do not opt out of the Settlement, you will be deemed to have released Defendant from the following claims during the period of August 18, 2016 through June 30, 2022: all PAGA claims pled or could have been pled based on the factual allegations contained in the Complaints filed in the Action and the written notice(s) sent to the Labor & Workforce Development Agency pursuant to California Labor Code § 2699.3(a)(1) that occurred

during the PAGA Period as to the Aggrieved Employees, and a release from the Class Members who decline to request exclusion from these Actions and settlement shall thereby release the Released Parties from all claims that were or could have been alleged in the Complaints filed in the Actions under any state law, federal law, common law, equity or other theory reasonably related to the facts alleged in the Complaints filed in the Action regarding the provision (or alleged non-provision) of rest breaks, meal breaks, overtime, minimum wage, waiting time penalties, and/or wage statements provided to those class members (or the content or lack of content of any wage statements received), from August 18, 2016 through June 30, 2022, and the Released Claims as further defined below.

The Released Claims include all claims, rights, demands, liabilities, causes of action, and theories of liability of every nature and description, whether known or unknown, that were alleged against Defendant and/or any of the Released Parties, or which could have been alleged based on the facts pled against them in the written notice sent to the Labor & Workforce Development Agency pursuant to California Labor Code § 2699.3(a)(1) or the Complaints in the Actions. These claims include claims for failure to provide and/or maintain copies of accurate itemized wage statements, failure to provide timely and uninterrupted meal and rest breaks, failure to pay overtime, failure to pay minimum wage, failure to properly calculate the regular rate of pay, failure to pay minimum wage or overtime as applicable for all hours worked including but not limited to unpaid wages due to inaccurate time rounding, time spent donning and doffing uniforms, on-call compensation, and any and all off-the-clock work, failure to timely pay wages during employment in violation of Labor Code section 204, and/or for penalties (regardless of the recipient), damages, interest, costs or attorneys' fees, and violations of applicable local, state or federal law, whether for economic damages, non-economic damages, liquidated, or punitive damages, restitution, tort, contract, equitable relief, injunctive or declaratory relief, that occurred during the applicable Class Period and reasonably related to the facts that were alleged in the written notice sent to the Labor & Workforce Development Agency pursuant to California Labor Code § 2699.3(a)(1) or the Complaints in the Actions, including claims under any common laws, the California Business & Professions Code Sections 17200, et seq. ("UCL"), including claims asserted under the UCL predicated on violations of any state and/or federal law alleged in the Complaints and/or Amended Complaints in the Action, including the Cal. Code of Regulations, Title 8, Sections 11000, et seq., any applicable Wage Order, the California Labor Code, and the California Private Attorneys General Act of 2004, Labor Code Sections 2698, et seq. Notwithstanding the foregoing, the Released Claims do not include vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, class claims outside of the Class Period, class claims not based on the facts alleged in the Complaint and/or the written notice provided to the Labor & Workforce Development Agency pursuant to California Labor Code § 2699.3, PAGA claims outside of the PAGA period, and any individual claim under the Section 16(b) of the FLSA, 29 U.S.C. § 216(b), as to a Class Member who does not opt-in to the Settlement by cashing, depositing or endorsing his or her Settlement Payment check, to the extent that opting-in is required to release such FLSA claims.

10. How do I object to the Settlement?

If you are a Class Member and would like to object to the Settlement, you must not submit a request for exclusion (*i.e.*, must not opt out). In order to object, you may mail a written objection to the Settlement Administrator at the address in Section 16 below. The objection must include a written statement of the grounds for objection, be signed by you or your authorized representative, and include all supporting papers. You must mail any written objection to the Settlement Administrator no later than [DATE]. You may appear in person at the Final Fairness and Approval Hearing to present any oral objections even if you do not submit a timely Notice of Objection.

11. Why would I ask to be excluded?

You have the right to exclude yourself from the Class (and the settlement). If you exclude yourself from the Class—sometimes called "opting-out" of the Class – you won't get any money or benefits from the settlement. However, you may then be able to sue or continue to sue Defendant(s) for your own claims if permitted by law. If you exclude yourself, you will not be legally bound by the Court's disposition of this lawsuit. If you exclude yourself, you should talk to your own lawyer soon, because your claims may be subject to a statute of limitations (thus, claims may expire in a short period of time).

12. How do I ask to be excluded from the Class?

If you are a member of the Class described above and would like to exclude yourself from the Class ("opt-out"), you, or your authorized representative, need to submit a written statement requesting exclusion from the Class to the Settlement Administrator at the address in Section 16 below. The statement must be signed by you or your authorized representative and must be postmarked on or before [DATE]. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the settlement and will not be bound by the settlement or have any right to object, appeal, or comment thereon. Class Members who fail to submit a valid and timely request for exclusion on or before [DATE] will be bound by all terms of the settlement and any final disposition entered in this Class Action if the Settlement is approved by the Court. However, Class Members cannot opt out of releasing PAGA claims, as those claims technically belong to the State of California and Plaintiff has agreed to release those claims acting as a proxy for the State.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court decided that Aegis Law Firm, PC is qualified to represent you and all Class Members. The law firm is called "Class Counsel" in the context of this case. The law firms' attorneys are experienced in handling similar cases against other employers. More information about this law firm, their practice, and their lawyers' experience is available at www.aegislawfirm.com.

14. How will the lawyers be paid?

As part of the Settlement with Defendant, Class Counsel has requested one-third of the Gross Settlement Amount (currently equal to \$466,666.66) in attorneys' fees, plus costs not to exceed \$25,000, to be paid from the Gross Settlement Amount to compensate Class Counsel for their work on this matter. You will not have to pay Class Counsel's fees and costs from your Individual Settlement Payment.

15. How will the Plaintiff be paid?

As part of the Settlement with Defendant, Class Counsel has requested an Incentive Award of up to \$5,000.00 to be paid to each Plaintiff for their efforts in this matter during initial investigation, discovery,

mediation and the like, while serving as Class Representative and taking on the burden and risks of litigation.

THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS

16. Who is handling the Settlement Administration process?

Phoenix Administration

[address]

[address]

[Telephone]

17. When is the Final Fairness and Approval Hearing and do I have to attend?

The Final Fairness and Approval Hearing has been set for [DATE], at [TIME] a.m. in Department 23 of the Alameda County Superior Court for the State of California, located at 1221 Oak Street, Oakland, California 94612. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement, you may appear at the hearing. Please note that the hearing may be continued without further notice to the Class.

18. When will I get money after the hearing?

The Court will hold a hearing on [DATE], to decide whether to approve the settlement. If the Court approves the settlement, after that there may be appeals if anyone objects. It is always uncertain when these objections and appeals can be resolved, and resolving them can take time. To check on the progress of the settlement, contact the Settlement Administrator or Class Counsel at the phone number or address listed in Section 19.

If the Court approves the settlement and if you do not opt out, your individual payment set forth in Section 8 above is expected to be distributed within about 45 days, unless there is an appeal.

GETTING MORE INFORMATION

19. Are more details available?

This Notice only summarizes the lawsuit, the Settlement, and related matters. For more information, the pleadings and other records in this litigation, including copies of the Settlement Agreement, may be examined at any time during regular business hours at the office of the Clerk of the Superior Court of the State of California for Alameda, at the Alameda County Superior Court, located at 1221 Oak Street, Oakland, California 94612.

The pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as 'eCourt Public Portal,' at <https://eportal.alameda.courts.ca.gov>. After arriving at the website, click the 'Search ' tab at the top of the page, then select the Document Downloads link, enter the case number and click 'Submit.' Images of every document filed in the case

may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

To view the Register of Actions, go to the 'Search ' tab at the top of the page, then select the 'Search by Case Number' enter the case number, select 'Search' and click the link to the case name. You will see the Register of Actions and more.

Any questions regarding this Class Notice or the Lawsuit may be directed to the Claims Administrator at the below address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact Class Counsel at the address, telephone number or email address set forth below. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

Settlement Administrator:

Phoenix Administration

[address]

[address]

[telephone]

Class Counsel:

AEGIS LAW FIRM, PC

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Facsimile: (949) 379-6251

PLEASE DO NOT CALL OR WRITE TO THE JUDGE OR TO THE COURT, OR TO ANY OF DEFENDANT'S MANAGERS, SUPERVISORS, OR DEFENDANT'S ATTORNEYS WITH QUESTIONS.