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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

Georgi Vuchkov, Jose Bustos, Individually and
on behalf of all others similarly situated,

Plaintiff,

v.

Whole Foods Market California, Inc.; and
Does 1 through 20, inclusive,

Defendant.

Case No.: RG21092593

Hon. Frank Roesch– Dept. 17

**JOINT STIPULATION AND
SETTLEMENT OF CLASS ACTION
AND PRIVATE ATTORNEYS
GENERAL ACT REPRESENTATIVE
CLAIMS**

Action Filed: March 18, 2021

Trial Date None Set

1 Subject to final approval by the Court, which counsel and the Parties agree to diligently
2 pursue and recommend in good faith, Plaintiffs Georgi Vuchkov and Jose Bustos
3 (“Plaintiffs”), individually and on behalf of all others similarly situated and alleged aggrieved
4 employees, on the one hand, and Defendant Whole Foods Market California, Inc.
5 (“Defendant”), on the other hand (collectively, the “Parties” and individually, a “Party”),
6 hereby agree to the following binding settlement of the class and representative action
7 designated Georgi Vuchkov et al. v. Whole Foods Market California, Inc., Alameda County
8 Superior Court Case No. RG21092593 (the “Action”), pursuant to the terms and conditions
9 set forth below (the “Settlement,” “Settlement Agreement” or “Agreement”).

10 **I. Definitions.**

11 The following definitions are applicable to this Settlement Agreement. Definitions
12 contained elsewhere in this Settlement Agreement will also be effective:

13 **A. “Action.”**

14 The case entitled Georgi Vuchkov et al. v. Whole Foods Market California, Inc.,
15 Alameda County Superior Court Case No. RG21092593.

16 **B. “Attorneys’ Fees and Costs.”**

17 The attorneys’ fees approved by the Court for Class Counsel’s litigation and resolution
18 of the Action, and all costs incurred and to be incurred by Class Counsel in the Action,
19 including, but not limited to, costs associated with documenting the Settlement, securing the
20 Court’s approval of the Settlement, and administering the Settlement. Class Counsel will
21 request attorneys’ fees not to exceed thirty-five percent (35%) of the Class Settlement
22 Amount, or \$2,590,000. The costs requested to be reimbursed will not exceed \$40,000.00.
23 The attorneys’ fees and costs awarded are subject to the Court’s approval. Such Attorneys’
24 Fees and Costs shall be paid from the Class Settlement Amount. Class Counsel will be issued
25 an IRS Form 1099 for the Attorneys’ Fees and Costs detailed in this Section and shall be
26 solely and legally responsible for paying all applicable taxes on the payment made pursuant
27 to this Section.

1 **C. “Class Counsel.”**

2 Jonathan M. Lebe, Zachary Gershman, and Ryan Ely of Lebe Law, APLC, 777 S.
3 Alameda St. Second Floor, Los Angeles, CA 90021, shall be appointed as Class Counsel upon
4 approval by the Court.

5 **D. “Class List.”**

6 A complete list of all Class Members (as that term is defined below) that Defendant
7 will diligently and in good faith compile from their records and provide to the Settlement
8 Administrator within fourteen (14) calendar days after Preliminary Approval of this
9 Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet
10 and will include each Class Member’s full name, most recent mailing address, telephone
11 number, Social Security number, dates of employment (*i.e.*, hire date and termination date, if
12 applicable), the total workweeks worked for each Class Member during the Class Period, and
13 the total Pay Periods worked for each PAGA Aggrieved Employee.

14 **E. “Class Member(s)” or “Settlement Class.”**

15 All persons employed by Defendant in the State of California as hourly non-exempt
16 employees during the Class Period (as that term is defined below).

17 **F. “Class Period.”**

18 The period March 18, 2017 through the date of preliminary approval, or September
19 24, 2023, whichever is sooner.

20 **G. “Class Released Claims.”**

21 As of the date of the Final Approval, all Class Members who do not opt out of the
22 Settlement fully and finally release Defendant and the Released Parties from any and all Class
23 Released Claims. The Class Released Claims include all claims asserted in the Third Amended
24 Complaint, arising from or related to the facts and claims alleged in the Third Amended
25 Complaint, or that could have been raised in the Action based on the facts and claims alleged
26 in the Third Amended Complaint. The Class Released Claims include all claims under the
27 California Labor Code, the applicable Wage Orders of the Industrial Welfare Commission,
28 the California Private Attorneys General Act of 2004 (“PAGA”), and the California Business

1 and Professions Code Section 17200, *et seq.* asserted in or related to the facts and claims
2 alleged in the Third Amended Complaint, including but not limited to: (i) failure to pay
3 minimum wages, straight time compensation, overtime compensation, double-time
4 compensation, and interest; (ii) the calculation and payment of the regular rate of pay; (iii)
5 missed meal period and rest-period premiums, including failure to pay premiums at the regular
6 rate of compensation; (iv) the provision of wage statements; (v) the alleged failure to pay
7 vested, unused vacation pay; (vi) the alleged failure to pay sick leave pay at the regular rate
8 of pay; (vii) reimbursement for all necessary business expenses; (viii) payment for all hours
9 worked, including off-the-clock work; (ix) deductions; (x) failure to keep accurate records;
10 (xi) unfair business practices; (xii) penalties, including, but not limited to, civil penalties,
11 statutory penalties, recordkeeping penalties, minimum-wage penalties, wage statement
12 penalties, and waiting-time penalties; (xiii) attorneys' fees and costs; and (xiv) all derivative
13 claims. This release excludes the release of claims not permitted by law.

14 ***H. "Class Representative Enhancement Payment."***

15 The amount to be paid to Plaintiffs in recognition of their efforts and work in
16 prosecuting the Action on behalf of Class Members and for their general release of claims.
17 Subject to the Court granting Final Approval of this Settlement Agreement, Plaintiffs will
18 request Court approval of a Class Representative Enhancement Payment of \$15,000 each for
19 Plaintiffs. Plaintiffs will be issued an IRS Form 1099 in connection with their Class
20 Representative Enhancement Payment. Plaintiffs shall be solely and legally responsible for
21 paying any and all applicable taxes on this payment and shall hold Defendant harmless from
22 any claim or liability for taxes, penalties, or interest arising as a result of the payment. The
23 Class Representative Enhancement Payment will be paid from the Class Settlement Amount
24 and will be in addition to Plaintiffs' Individual Settlement Payment (as that term is defined
25 below) paid pursuant to the Settlement. Defendant makes no representations as to the tax
26 treatment or legal effect of the payment called for herein, and Plaintiffs are not relying on any
27 statement or representation by Defendant or its counsel in this regard.

1 ***I. “Class Settlement Amount.”***

2 The sum of \$7,400,000.00 to be paid by Defendant in full satisfaction of all claims
3 alleged in and arising from the Action. The Class Settlement Amount includes all Individual
4 Settlement Payments to Class Members, the Class Representative Enhancement Payment to
5 Plaintiffs, Settlement Administration Costs to the Settlement Administrator, the PAGA
6 Settlement Amount, and Attorneys’ Fees and Costs. Defendant will be responsible for any
7 employer payroll taxes required by law, separate and in addition to the Class Settlement
8 Amount, including the employer FICA, FUTA, and SDI contributions on the wage portion of
9 the Individual Settlement Payments.

10 ***J. “Effective Date.”***

11 The date on which the Final Award becomes final. For purposes of this Section, the
12 Final Award “becomes final” only upon the occurrence of the following events: (a) this
13 Stipulation has been executed by all Parties and by Class Counsel and Defense Counsel; (b)
14 the Court has given preliminary approval of the Settlement; (c) the Notice Packet (as that term
15 is defined below) has been given to the Class Members providing them an opportunity to opt
16 out of the Settlement; (d) if more than five-percent (5%) of the Settlement Class opt out of the
17 Settlement and Defendant has elected not to exercise its right to void the Settlement; (e) if
18 final approval of the settlement of the case titled Patricia O’Connor et al. v. Whole Foods
19 Market of California, Inc., Case No. 22CV008620, is denied with prejudice and Defendant
20 has elected not to exercise its right to void the Settlement; and (f) the Court has held a Final
21 Approval and Fairness Hearing, granting the Motion for Final Approval and entering Final
22 Judgment upon the latter of: (i) if no appeal is filed, the expiration date of the time for the
23 filing or noticing of any appeal from, or other challenge to, the Final Judgment (this time
24 period shall not be less than sixty (60) calendar days after the Notice of Entry of Final
25 Judgment); (ii) if an appeal is filed, the date the Final Judgment is affirmed and becomes final
26 under the California Rules of Court; or (iii) if an appeal is filed, the date of final dismissal of
27 any appeal from the Final Judgment or the final dismissal of any proceeding on review of any
28 court of appeal decision relating to the Final Judgment.

1 **K. “Escalator Clause.”**

2 Defendant represents that there are approximately 2,594,996 weeks worked by Class
3 Members from March 18, 2017 through June 7, 2023. If the actual number of Workweeks in
4 the Class Period increases by more than ten percent (10%) (*i.e.*, more than 259,500), the Class
5 Settlement Amount shall increase on a pro rata basis equal to the percentage increase
6 exceeding 10% (*e.g.*, if the actual number were 14.5% greater than 2,594,996, then the Class
7 Settlement Amount would be increased by 4.5%).

8 **L. “Final Approval.”**

9 An Order, entered by the Court, Granting Final Approval of this Stipulation and the
10 Settlement.

11 **M. “Final Approval and Fairness Hearing.”**

12 The hearing held to ascertain the fairness, reasonableness, and adequacy of the
13 Settlement.

14 **N. “Final Judgment.”**

15 The Judgment entered by the Court based on Final Approval of the Settlement.

16 **O. “Individual Settlement Payment.”**

17 Each Class Member’s share of the Net Settlement Amount, which shall be distributed
18 to the Class Members, less employee portions of state and federal withholding taxes, including
19 the employee FICA, FUTA and SDI contributions and any other applicable payroll deductions
20 required by law as a result of the payment of the amount allocated to such Class Member as
21 set forth herein.

22 **P. “LWDA Notice.”**

23 Plaintiffs will submit notice to the California Labor and Workforce Development
24 Agency (“LWDA”) of this Settlement along with a copy of this Settlement Agreement within
25 ten (10) calendar days of its execution by all Parties and Class Counsel, and will thereafter
26 submit a copy of any judgment or any other order (*e.g.*, the Final Award) providing for an
27 award of civil penalties in conformity with Labor Code Section 2699(l).
28

1 **Q. “LWDA Payment.”**

2 The amount of Three Hundred and Seventy-Five Thousand Dollars and Zero Cents
3 (\$375,000.00) taken from the PAGA Settlement Amount that the Parties have agreed to pay
4 to the LWDA in connection with the claims asserted under the California Private Attorneys
5 General Act of 2004 (“PAGA”).

6 **R. “Net Settlement Amount.”**

7 The portion of the Class Settlement Amount remaining after deduction of the approved
8 Class Representative Enhancement Payment, Settlement Administration Costs, PAGA
9 Settlement Amount, and the Attorneys’ Fees and Costs.

10 **S. “Notice of Objection.”**

11 A Class Member’s valid and timely written objection to the Settlement Agreement.
12 For the Notice of Objection to be valid, it must include the objector’s full name, signature,
13 address, telephone number and a written statement of all grounds for the objection
14 accompanied by legal support, if any, for such objection. The Notice of Objection must be
15 returned by mail or fax to the Settlement Administrator at the specified address or facsimile
16 number and postmarked or faxed on or before the Response Deadline. The date of the
17 postmark or fax receipt confirmation will be the exclusive means to determine whether a
18 Notice of Objection has been timely submitted.

19 Class Members who fail to make objections in the manner specified above shall be
20 deemed to have waived any objections and shall be foreclosed from making any objection
21 (whether by appeal or otherwise) to the Settlement Agreement. Neither the Parties nor their
22 counsel will solicit or otherwise encourage Class Members to submit written objections to the
23 Settlement Agreement or appeal from the Order and Judgment. Class Counsel will not
24 represent any Class Members with respect to any such objections to this Settlement. The
25 Settlement Administrator shall provide counsel for the Parties with complete copies of all
26 objections received, including the date of postmark or fax receipt confirmation for each
27 objection, within five (5) business days of receipt. Class Counsel will provide copies of any
28 objections and supporting documents to the Court at least sixteen (16) court days before the

1 Final Approval Hearing.

2 ***T. “Notice Packet.”***

3 The document providing Class Members with notice of and information regarding the
4 Action and the Settlement, substantially in the form attached as Exhibit 1, that will be mailed
5 to Class Members’ last known addresses.

6 ***U. “PAGA Aggrieved Employees.”***

7 All current and former non-exempt employees employed by Defendant in the State of
8 California during the period March 17, 2020 through the date of preliminary approval or
9 September 24, 2023, whichever is sooner.

10 ***V. “PAGA Portion of the Settlement.”***

11 Divide the number of Pay Periods worked by the PAGA Aggrieved Employee by the
12 total number of Pay Periods worked by all PAGA Aggrieved Employees during the period
13 March 17, 2020 through the date of preliminary approval or September 24, 2023, whichever
14 is sooner. The resulting percentage shall be applied to \$125,000 to determine the PAGA
15 portion of the settlement for that Participating Settlement Class Member who is also a PAGA
16 Aggrieved Employee. The PAGA portion of the Settlement shall be paid out to Class
17 Members even if the Class Member opts out of the Settlement.

18 ***W. “PAGA Settlement Amount.”***

19 The amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00)
20 allocated to resolution of the PAGA claims of the PAGA Aggrieved Employees, to be taken
21 from the Class Settlement Amount. Per Labor Code § 2699(i), seventy-five percent (75%) of
22 the PAGA Settlement Amount, or Three Hundred and Seventy-Five Thousand Dollars and
23 Zero Cents (\$375,000.00) will be payable to the LWDA, and the remaining twenty-five
24 percent (25%), or One Hundred and Twenty-Five Thousand Dollars and Zero Cents
25 (\$125,000.00) of the PAGA Settlement Amount will be calculated separately from the Net
26 Settlement Amount and included the Individual Settlement Payments per Paragraph 8.

27 ***X. “Pay Periods.”***

28 A fourteen (14) day period beginning on a Monday. The start of the pay period

1 coincides with the start of the workday. There are no partial Pay Periods (Pay Periods are
2 integers).

3 **Y. “*Plaintiffs’ Released Claims.*”**

4 Upon the Effective Date, and as a condition of receiving any portion of his Class
5 Representative Enhancement Payment, Plaintiffs fully and finally release Defendant and the
6 Released Parties, from any and all claims, known and unknown, under federal, state and/or
7 local law, statute, ordinance, regulation, common law, or other source of law, including but
8 not limited to claims arising from or related to their employment with Defendant and their
9 compensation while employees of Defendant (“Plaintiffs’ Released Claims”). Plaintiffs’
10 Released Claims include, but are not limited to, all claims arising from or related to the Action
11 and related forthcoming amended complaint. Plaintiffs’ Released Claims include all claims
12 for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time
13 compensation, overtime compensation, double-time compensation, and interest; the
14 calculation of the regular rate of pay; missed meal period and rest-period premiums, including
15 failure to pay premiums at the regular rate of compensation; wage statement penalties;
16 reimbursement for all necessary business expenses; payment for all hours worked, including
17 off-the-clock work; the alleged failure to pay vested, unused vacation pay; the alleged failure
18 to pay sick leave pay at the regular rate of pay; deductions; failure to keep accurate records;
19 unfair business practices; penalties, including, but not limited to, civil penalties, statutory
20 penalties, recordkeeping penalties, minimum-wage penalties, wage statement penalties, and
21 waiting-time penalties; and attorneys’ fees and costs. Plaintiffs’ Released Claims include all
22 claims arising under the California Labor Code (including, but not limited to, sections 90.5,
23 201, 202, 203, 204, 213, 218.5, 221, 223, 226, 226.3, 226.7, 227.3, 246, 432, 510, 511, 512,
24 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 1670.5,
25 2698 *et seq.*, 2699 *et seq.*, 2699.3, 2800, and 2802); all claims arising under: the Wage Orders
26 of the California Industrial Welfare Commission; the California Private Attorneys General
27 Act of 2004 (“PAGA”); California Business and Professions Code section 17200, *et seq.*; the
28 California Civil Code, to include but not limited to, sections 3287, 3336 and 3294; California

1 Code of Civil Procedure § 1021.5; the California common law of contract; the FLSA, 29
2 U.S.C. § 201, *et seq.*; federal common law; and the Employee Retirement Income Security
3 Act, 29 U.S.C. § 1001, *et seq.* (“ERISA”). Plaintiffs’ Released Claims also include all claims
4 for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys’
5 fees and costs arising under federal, state, or local laws for discrimination, harassment,
6 retaliation, and wrongful termination, such as, by way of example only, (as amended) 42
7 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities
8 Act, the Age Discrimination in Employment Act, and the California Fair Employment and
9 Housing Act; and the law of contract and tort. This release excludes the release of claims not
10 permitted by law.

11 Plaintiffs’ Released Claims include all claims, whether known or unknown. Even if
12 Plaintiffs discover facts in addition to or different from those that they now know or believe
13 to be true with respect to the subject matter of Plaintiffs’ Released Claims, those claims will
14 remain released and forever barred. Thus, Plaintiffs expressly waive and relinquish the
15 provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

16 A general release does not extend to claims that the creditor or releasing
17 party does not know or suspect to exist in his or her favor at the time of
18 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.

19 **Z. “Preliminary Approval.”**

20 The Court’s order granting preliminary approval of the Settlement Agreement.

21 **AA. “Qualified Settlement Account.”**

22 The fund established by the Settlement Administrator pursuant to Internal Revenue
23 Code Section 1.468B-1.

24 **BB. “Released Parties.”**

25 Defendant and each of its past, present, and future agents, employees, servants,
26 officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys,
27 parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships,
28 divisions, assigns, predecessors, successors, insurers, consultants, service providers, joint

1 venturers, joint employers, co-employers, dual employers, alleged joint employers, alleged
2 co-employers, alleged dual employers, affiliates, alter-egos, and affiliated organizations, and
3 all of their respective past, present and future employees, directors, officers, agents, attorneys,
4 stockholders, fiduciaries, parents, subsidiaries, and assigns.

5 ***CC. “Request for Exclusion.”***

6 A notice submitted by a Class Member requesting to be excluded from the Settlement.
7 For the Request for Exclusion to be valid, it must include the Class Member’s full name,
8 signature, address, telephone number and a written statement requesting to be excluded from
9 this Settlement. The Request for Exclusion must be returned by mail or fax to the Settlement
10 Administrator at the specified address or facsimile number and postmarked or faxed on or
11 before the Response Deadline. The date of the postmark or fax receipt confirmation will be
12 the exclusive means to determine whether a Request for Exclusion has been timely submitted.
13 A Class Member who does not submit a timely and valid Request for Exclusion from the
14 Settlement will be deemed a Class Member and will be bound by all terms of the Settlement
15 Agreement if the Settlement is granted Final Approval by the Court.

16 ***DD. “Response Deadline.”***

17 The deadline by which Class Members must mail or fax to the Settlement
18 Administrator valid Requests for Exclusion, Notices of Objection to the Settlement, or
19 workweek amount disputes. The Response Deadline will be forty-five (45) calendar days
20 from the initial mailing of the Notice Packet by the Settlement Administrator, unless the 45th
21 day falls on a Sunday or Federal holiday, in which case the Response Deadline will be
22 extended to the next day on which the U.S. Postal Service is open. The Response Deadline
23 for Requests for Exclusion, Notices of Objection, or gross payroll amount disputes will be
24 extended fifteen (15) calendar days for any Class Member who is re-mailed a Notice Packet
25 by the Settlement Administrator, unless the 15th day falls on a Sunday or Federal holiday, in
26 which case the Response Deadline will be extended to the next day on which the U.S. Postal
27 Service is open. The Response Deadline may also be extended by express agreement between
28 Class Counsel and Defendant. Under no circumstances, however, will the Settlement

1 Administrator have the authority to unilaterally extend the deadline for Class Members to
2 submit a Request for Exclusion, Notice of Objection to the Settlement, or gross payroll
3 disputes.

4 ***EE. “Settlement Administrator.”***

5 Rust Consulting, Inc. shall be the third-party class action Settlement Administrator as
6 agreed to by the Parties and approved by the Court for the purposes of administering this
7 Settlement. The Parties each represent that they do not have any financial interest in the
8 Settlement Administrator or otherwise have a relationship with the Settlement Administrator
9 that could create a conflict of interest.

10 ***FF. “Settlement Administration Costs.”***

11 The costs payable from the Class Settlement Amount to the Settlement Administrator
12 for administering this Settlement, including, but not limited to, printing, distributing, and
13 tracking documents for this Settlement, calculating estimated amounts per Class Member, tax
14 reporting, distributing the Class Settlement Amount, and providing necessary reports and
15 declarations, and other duties and responsibilities set forth herein to process this Settlement
16 Agreement, and as requested by the Parties. The Settlement Administration Costs will be paid
17 from the Class Settlement Amount, including, if necessary, any such costs in excess of the
18 amount represented by the Settlement Administrator as being the maximum costs necessary
19 to administer the Settlement, which are anticipated to be no greater than \$150,000.00. To the
20 extent actual Settlement Administration Costs are greater than \$150,000.00, such excess
21 amount will be taken from the Class Settlement Amount, subject to the Court’s approval.

22 ***GG. “Third Amended Complaint.”***

23 In conjunction with, and as precondition of Preliminary Approval, Plaintiffs will file
24 a Third Amended Complaint via stipulation adding a claim for failure to provide accurate
25 itemized wage statements under Labor Code section 226, excluding the specific allegation
26 that the rates for “overnight” wages were not correctly identified on wage statements. The
27 Labor Code section 226 claims will be brought on behalf of Plaintiffs and all class members,
28 and Plaintiffs will send a corresponding PAGA exhaustion letter to the LWDA related to this

1 additional claim. Such stipulation shall be filed prior to the hearing on Preliminary Approval
2 and shall be entered prior to or in conjunction with Preliminary Approval.

3 ***HH. "Workweek."***

4 A Workweek refers to any calendar week (i.e., a week beginning with Monday and
5 ending with Sunday) during the Class Period, in which a Class Member was engaged in any
6 productive work activity for which they were paid as a non-exempt employee, not including
7 paid time off or leaves of absence.

8 **II. Funding of the Class Settlement Amount.**

9 1. Within fourteen (14) calendar days from the Effective Date of the Settlement,
10 Defendant will deposit the Class Settlement Amount and an amount sufficient to satisfy the employer
11 payroll taxes required by law into a Qualified Settlement Account to be established by the Settlement
12 Administrator. Within fourteen (14) calendar days of the full funding of the Settlement, the Settlement
13 Administrator will issue payments to: (a) Class Members; (b) the LWDA; (c) Plaintiffs; and (d) Class
14 Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved services
15 performed in connection with the Settlement. Defendant has no obligation to deposit such funds prior
16 to the deadlines set forth herein.

17 **III. Attorneys' Fees and Costs.**

18 2. Defendant agrees not to oppose any application by Class Counsel for attorneys' fees
19 of not more than thirty-five percent of the Class Settlement Amount, or \$2,590,000.00, and for the
20 reimbursement of costs and expenses associated with Class Counsel's litigation and settlement of the
21 Action not to exceed \$40,000.00. No counsel shall be entitled to attorneys' fees or costs for work
22 performed in the Action other than as provided in this Settlement Agreement. The instant Settlement
23 Agreement is the exclusive means for recovery of attorneys' fees and costs incurred in the Action by
24 any attorney, law firm, and/or other legal services provider.

25 **IV. Class Representative Enhancement Payment.**

26 3. Defendant agrees not to oppose any application or motion for Class Representative
27 Enhancement Payment in the amount of up to \$15,000.00 for each of the Plaintiffs. Plaintiffs will be
28 solely and legally responsible to pay any and all applicable taxes on the payment made pursuant to this

Section and will indemnify and hold Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of the payment.

V. Settlement Administration Costs.

4. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Class Settlement Amount, which are currently estimated to be \$150,000.00.

5. The Parties hereby acknowledge that the Settlement Administration Costs may increase above the current estimate of \$150,000.00 and that any such additional Settlement Administration Costs that are approved by the Parties' counsel and the Court shall be taken out of the Class Settlement Amount.

VI. Labor and Workforce Development Agency Payment.

6. Subject to Court approval, the Parties agree that the PAGA Settlement Amount will be designated for satisfaction of Plaintiffs' and Class Members' PAGA claims. Per Labor Code section 2699(i), seventy-five percent (75%) of the PAGA Settlement Amount, or \$375,000.00, will be paid to the LWDA and twenty-five percent (25%), or \$125,000.00, of the PAGA Settlement Amount will be paid to PAGA Aggrieved Employees.

VII. Net Settlement Amount.

7. The Net Settlement Amount and \$125,000.00 of the PAGA Settlement Amount will be used to satisfy Individual Settlement Payments to Class Members from the Settlement Class in accordance with the terms of this Settlement.

VIII. Individual Settlement Payment Calculations.

8. To determine the Individual Settlement Payment for each Participating Settlement Class Member, the Settlement Administrator will:

- 8(a) Divide the number of Workweeks for each Class Member by the total number of Workweeks for all Class Members during the Class Period. The resulting percentage shall be applied to the Net Settlement Fund to determine the Individual Settlement Payment for that Participating Settlement Class Member.

- 1 8(b) Add the PAGA Portion of the Settlement for Class Members who are
2 also PAGA Aggrieved Employees.
- 3 8(c) For taxation purposes, the Individual Settlement Payment to each Class
4 Member shall be allocated seventy percent (70%) to penalties and interest
5 to be paid as one check and reported on a 1099 Form; and thirty percent
6 (30%) to wages to be paid as another check and reported on a W-2 Form.
- 7 8(d) The Settlement Administrator shall determine the eligibility for, and the
8 amounts of, any Individual Settlement Payments under the terms of this
9 Settlement Agreement.

10 9. The Individual Settlement Payments made to Class Members under this Settlement,
11 and any other payments made pursuant to this Settlement, will not be utilized to calculate any
12 additional benefits under any benefit plans to which any Class Members may be eligible, including,
13 but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
14 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this
15 Settlement Agreement will not affect any rights, contributions, or amounts to which any Class
16 Members may be entitled under any benefit plans.

17 **IX. Settlement Administration Process.**

18 10. The Parties agree to cooperate in the administration of the Settlement and to make all
19 reasonable efforts to control and minimize the costs and expenses incurred in administration of the
20 Settlement. The Settlement Administrator will provide the following services:

- 21 a. Establish and maintain a Qualified Settlement Account.
- 22 b. Calculate the Individual Settlement Payment each Class Member is eligible
23 to receive.
- 24 c. Print and mail the Notice Packet.
- 25 d. Establish and maintain a toll-free information telephone support line to assist
26 Class Members who have questions regarding the Notice Packet.
- 27 e. Conduct additional address searches for mailed Notice Packets that are
28 returned as undeliverable.

- 1 f. Process Requests for Exclusion, calculate Class Members' Individual
2 Settlement Payment, field inquiries from Class Members, and administer any
3 Requests for Exclusion. This service will include settlement proceed
4 calculation, printing and issuance of Individual Settlement Payment Checks,
5 and preparation of IRS W-2 and 1099 Tax Forms. Accounting for and
6 payment of employee tax withholdings and calculation and forwarding of all
7 payroll taxes and penalties to the appropriate government authorities will also
8 be included as part of this service.
- 9 g. Issuing to Plaintiffs, Class Members, and Plaintiffs' Counsel any W-2, 1099,
10 or other tax forms as may be required by law for all amounts paid pursuant to
11 this Settlement.
- 12 h. Provide declarations and/or other information to the Court as requested by the
13 Parties and/or the Court.
- 14 i. Provide weekly status reports to counsel for the Parties.
- 15 11. Within fourteen (14) calendar days of Preliminary Approval, Defendant will provide
16 the Class List to the Settlement Administrator.
- 17 12. Within fourteen (14) calendar days after receiving the Class List from Defendant, the
18 Settlement Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S.
19 Mail, using the last known mailing addresses identified in the Class List.
- 20 13. Prior to mailing, the Settlement Administrator will perform a search based on the
21 National Change of Address Database for information to update and correct any known or identifiable
22 address changes. Any Notice Packets returned to the Settlement Administrator as non-deliverable on
23 or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the
24 forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-
25 mailing on the Notice Packet. If no forwarding address is provided, the Settlement Administrator will
26 promptly attempt to determine the correct address using a skip-trace, or other search using the name,
27 address and/or Social Security number of the Class Member involved, and will then perform a single
28 re-mailing. If after skip-trace, or other search, no better address is determined, the Settlement

1 Administrator will re-mail to the original address. Those Class Members who receive a re-mailed
2 Notice Packet, whether by skip-trace or by request, will have an additional fifteen (15) calendar days
3 to postmark or fax a Request for Exclusion, payment dispute or Notice of Objection to the Settlement.

4 14. Class Members will have an opportunity to dispute the information provided in their
5 Notice Packets. To the extent Class Members dispute the information used from Defendant's records
6 to calculate their Individual Settlement Payment or the amount of their Individual Settlement Payment,
7 Class Members may produce evidence to the Settlement Administrator showing that such information
8 is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed
9 determinative. However, if a Class Member produces evidence to the contrary, the Settlement
10 Administrator will evaluate the evidence submitted by the Class Member and will make the final
11 decision as to the Individual Settlement Payment to which the Class Member may be entitled. The
12 payment dispute must be returned by mail or fax to the Settlement Administrator at the specified
13 address or facsimile number and postmarked or faxed on or before the Response Deadline. The date
14 of the postmark or fax receipt confirmation will be the exclusive means to determine whether a
15 payment dispute has been timely submitted. All such disputes are to be resolved not later than fourteen
16 (14) calendar days after the Response Deadline.

17 15. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
18 Settlement Agreement must sign and postmark or fax a written Request for Exclusion to the Settlement
19 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope
20 or the fax receipt confirmation will be the exclusive means to determine whether a Request for
21 Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the Settlement
22 Administrator, who will certify jointly to Class Counsel and Defendant's Counsel the Requests for
23 Exclusion that were timely submitted. Any Class Member who does not affirmatively opt out of the
24 Settlement Agreement by submitting a timely and valid Request for Exclusion will be bound by all its
25 terms, including those pertaining to the Released Claims. Class members shall not be able to exclude
26 themselves from the PAGA Portion of this Settlement or the release of PAGA claims, and Class
27 Members who are also PAGA Aggrieved Employees shall receive their PAGA Portion of the
28 Settlement even if they submit a timely and valid Request for Exclusion of the class action settlement.

1 16. Objections. Class Members who do not submit a Request for Exclusion may object
2 to this Settlement as explained in the Notice Packet by filing a written objection with the Settlement
3 Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel,
4 as well as file all such objections with the Court) within the Response Deadline. Defendant's counsel
5 and Class Counsel shall file any responses to objections no later than the deadline to file the Motion
6 for Final Approval, unless an untimely objection is filed within ten (10) days of the Motion for Final
7 Approval, in which case Class Counsel and Defendant's counsel shall have ten (10) days to respond.
8 To be valid, any objection must: (1) contain the objecting Class Member's full name and current
9 address, as well as contact information for any attorney representing the objecting Class Member for
10 purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include
11 any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be
12 postmarked no later than the Response Deadline.

13 17. Defective Submissions. If a Class Member's dispute regarding the Individual
14 Settlement Payment, Objection, or Request for Exclusion is defective as to the requirements listed
15 herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement
16 Administrator will mail the Class Member a cure letter within three (3) business days of receiving the
17 defective submission to advise the Class Member that their submission is defective and that the defect
18 must be cured to render the Objection or Request for Exclusion valid. The Class Member will have
19 until the later of (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure
20 letter, whichever date is later, to postmark or fax a revised Objection or Request for Exclusion.

21 **X. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

22 18. Defendant's Options to Nullify the Settlement Agreement. If five percent (5%) or
23 more of the Class Members opt out of the Settlement, Defendant, in its sole discretion, shall have the
24 option of nullifying the Settlement Agreement. Defendant must exercise this option by providing
25 written notice to Plaintiffs' counsel within fifteen (15) calendar days of being notified by the Settlement
26 Administrator that five percent or more of the Class Members opted out of the Settlement.

27 Further, this Action was settled in conjunction with and at the same time as the case of Patricia
28 O'Connor et al. v. Whole Foods Market California, Inc., Alameda County Superior Court Case No.

22CV008620. If the O'Connor settlement is denied final approval without the opportunity to amend its non-material terms, Defendant will have the option of terminating this Agreement, if this Settlement has not already been finally approved. Defendant must exercise this option by providing written notice to Plaintiffs' counsel within fifteen (15) calendar days of being notified that the O'Connor settlement has been denied final approval with prejudice.

If Defendant exercises either option, the Parties and any funds to be awarded under this Settlement Agreement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by Defendant due to its sole election to nullify the Agreement.

19. Automatic Nullification of the Settlement Agreement. In the event the Court does not enter Preliminary Approval and Final Approval, approving the release of the Released Claims against the Released Parties specified herein, this Settlement Agreement shall be null and void. The Stipulations and Recitals contained herein shall be of no force or effect, and shall not be treated as an admission by the Parties or their counsel. In such a case, the Parties and any funds to be awarded under this Settlement Agreement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid equally by both Parties.

XI. Certification Reports Regarding Individual Settlement Payment Calculations.

20. The Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report, which certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; (b) any objections submitted to the Settlement along with a copy of any such objection; and (c) whether any Class Member has submitted a challenge to any information contained in his/her Notice Packet. Additionally, the Settlement Administrator will provide to counsel for the Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

21. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to Class Members will be negotiable for one-hundred eighty (180) calendar days. After one-hundred

eighty (180) calendar days from the date of mailing, the checks shall become null and void, and any monies remaining in the distribution account shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, for the benefit of those Settlement Class members who did not cash their checks until such time that they claim their property. The Settling Parties agree that this disposition results in no “unpaid residue” under California Code of Civil Procedure § 384, as the entire Settlement Payment will be paid out to Settlement Class Members, whether or not they all cash their Settlement Checks.

22. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

XII. Tax Treatment of Individual Settlement Payment.

23. All Individual Settlement Payments will be allocated as follows: thirty percent (30%) of each Individual Settlement Payment will be allocated as wages and seventy percent (70%) will be allocated as non-wages, including penalties and interest. The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated to non-wages will be reported on an IRS Form-1099 by the Settlement Administrator. The Gross Individual Settlement Payments will be reduced by any required legal deductions for each Class Member. All standard employee payroll deductions will be made for state and federal withholding taxes, including any other applicable payroll deductions owed by the Class Members as a result of the Wage Component, resulting in a net wage component. The Settlement Administrator will issue a check and W-2 Form to each Class Member for the wage component. No withholding shall be made on the penalty portions of the Gross Individual Settlement Payment. The Settlement Administrator will issue a second check and IRS Form-1099 for the remaining penalty component. The Settlement Administrator shall be responsible for issuing the payments and calculating and withholding all required state and federal taxes. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payment under the terms of this Settlement Agreement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court, under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will

1 confer in good faith to resolve the dispute without the necessity of involving the Court.

2 **XIII. Administration of Taxes by the Settlement Administrator.**

3 24. Tax Liability. Defendant makes no representation as to the tax treatment or legal
4 effect of the payments called for hereunder, and Plaintiffs and Class Members are not relying on any
5 statement, representation, or calculation by Defendant or by the Settlement Administrator in this
6 regard. Plaintiffs and Class Members understand and agree they will be solely responsible for the
7 payment of their share of any taxes and penalties assessed on the payments described herein.

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

1 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
2 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
3 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
4 SETTLEMENT AGREEMENT.

5 **XIV. Release by Class Members.**

6 26. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
7 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
8 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause
9 of action or right herein released and discharged.

10 27. It is the desire of Plaintiffs, Class Members (except those who exclude themselves
11 from the Settlement), and Defendant to fully, finally, and forever settle, compromise, and discharge
12 the Released Claims. Upon the Final Approval by the Court of this Settlement Agreement, and except
13 as to such rights or claims as may be created by this Settlement Agreement, the Class Members shall
14 fully release and discharge the Released Parties from any and all Released Claims for the entire Class
15 Period. This release shall be binding on all Class Members who have not timely submitted a valid and
16 complete Request for Exclusion, including each of their respective attorneys, agents, spouses,
17 executors, representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the
18 benefit of the Released Parties, who shall have no further or other liability or obligation to any Class
19 Member with respect to the Released Claims, except as expressly provided herein. Class members
20 shall not be able to exclude themselves from the PAGA portion of this settlement or the release of
21 PAGA claims and Class Members who are also PAGA Aggrieved Employees shall receive their
22 PAGA portion of the settlement even if they opt-out of the class action settlement.

23 **XV. Preliminary Approval Hearing.**

24 28. Plaintiffs will obtain a hearing before the Court to request Preliminary Approval of
25 the Settlement Agreement and the entry of a Preliminary Approval Order for: (a) conditional
26 certification of the Settlement Class for settlement purposes only, (b) Preliminary Approval of the
27 proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement Fairness
28 Hearing.

1 29. The Preliminary Approval Order will provide for the Notice Packet to be sent to all
2 Class Members as specified herein. In conjunction with the Preliminary Approval Hearing, Plaintiffs
3 will submit this Settlement Agreement and will include the proposed Notice Packet.

4 30. Class Counsel will be responsible for drafting all documents necessary to obtain
5 Preliminary Approval, subject to review and comment by Defendant's counsel.

6 **XVI. Final Settlement Approval Hearing and Entry of Judgment.**

7 31. Upon expiration of the Response Deadline, and with the Court's permission, a Final
8 Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the
9 Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement
10 Payments; (b) the LWDA Payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative
11 Enhancement Payment; and (e) all Settlement Administration Costs.

12 32. The Final Approval and Fairness Hearing will be held no later than forty-five (45)
13 calendar days after the Response Deadline.

14 33. Class Counsel will be responsible for drafting all documents necessary to obtain Final
15 Approval, subject to review and comment by Defendant's counsel. Class Counsel will also be
16 responsible for drafting the Attorneys' Fees and Costs application to be heard at the Final
17 Approval/Settlement Fairness Hearing. Any failure by the Court to fully and completely approve the
18 Settlement Agreement, which results in the Court ordering the Parties to make substantial and material
19 changes to the Settlement Agreement that fundamentally alters the Parties obligations' under the
20 Settlement Agreement, will result in this Settlement Agreement entered into by the Parties, and all
21 obligations under this Settlement Agreement, being nullified and voided.

22 34. In conjunction with Final Approval, the Court shall enter Final Judgment consistent
23 with the terms of this Agreement.

24 **XVII. Judgment and Continued Jurisdiction.**

25 35. The Court shall retain jurisdiction with respect to the interpretation, implementation,
26 and enforcement of the terms of this Settlement Agreement and all orders and judgments entered in
27 connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court
28 for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Settlement

1 Agreement and all orders and judgments entered in connection therewith.

2 **XVIII. Other Provisions.**

3 36. Exhibits Incorporated by Reference. The terms of this Settlement include the terms
4 set forth in any attached Exhibits, which are incorporated by reference as though fully set forth herein.
5 Any Exhibits to this Settlement are an integral part of the Settlement.

6 37. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute
7 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
8 agreements may be deemed binding on the Parties.

9 38. Amendment or Modification. This Settlement Agreement may be amended or
10 modified only by a written instrument signed by counsel for all Parties or their successors-in-interest
11 and approved by the Court.

12 39. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
13 and represent they are expressly authorized by the Parties whom they represent to negotiate this
14 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
15 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
16 documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel
17 will cooperate with each other and use their best efforts to effect the implementation of the Settlement.
18 If the Parties are unable to reach agreement on the form or content of any document needed to
19 implement the Settlement, or on any supplemental provisions that may become necessary to effectuate
20 the terms of this Settlement, the Parties may seek the assistance of Gig Kyriacou (mediator) to resolve
21 such disagreement.

22 40. Binding on Successors and Assigns. This Settlement Agreement will be binding
23 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

24 41. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto
25 will be governed by and interpreted according to the laws of the State of California.

26 42. Execution and Counterparts. This Settlement Agreement is subject only to the
27 execution of all Parties. However, the Settlement Agreement may be executed in one or more
28 counterparts. All executed counterparts and each of them, including facsimile, scanned copies of the

signature page, and electronic signatures (e.g., DocuSign), will be deemed to be one and the same instrument.

43. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

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

45. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only. However, either Party may appeal any Court order that materially alters the terms of this Settlement Agreement.

46. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to class certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. The Parties further agree that certification for purposes of the Settlement is not an admission that class action certification is proper under the standards applied to contested certification motions and that this Settlement Agreement will not be admissible in this or any other proceeding as evidence that either: (a) a class action should be certified or (b) Defendant is liable to Plaintiffs or any Class Member, other than according to the Settlement's terms.

47. Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In entering into this Settlement Agreement, Defendant does not admit, and specifically denies, it has violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements;

1 breached any contract; violated or breached any duty; engaged in any misrepresentation or deception;
2 or engaged in any other unlawful conduct with respect to their employees. Neither this Settlement
3 Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be
4 construed as an admission or concession by Defendant of any such violations or failures to comply
5 with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement
6 Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received as
7 evidence in any action or proceeding to establish any liability or admission on the part of Defendant
8 or to establish the existence of any condition constituting a violation of, or a non-compliance with,
9 federal, state, local or other applicable law. If Final Approval does not occur, the Parties agree that
10 this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

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

14 49. Waiver. No waiver of any condition or covenant contained in this Settlement
15 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to
16 imply or constitute a further waiver by such party of the same or any other condition, covenant, right
17 or remedy.

18 50. Enforcement Action. If one or more of the Parties institutes any legal action or other
19 proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare
20 rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover
21 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
22 fees incurred in connection with any enforcement actions.

23 51. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
24 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be
25 construed more strictly against one Party than another merely by virtue of the fact that it may have
26 been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length
27 negotiations between the Parties, all Parties have contributed to the preparation of this Settlement
28 Agreement.

1 52. Representation by Counsel. The Parties acknowledge that they have been represented
2 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement and
3 that this Settlement Agreement has been executed with the consent and advice of counsel and reviewed
4 in full. Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on the
5 Settlement Agreement.

6 53. All Terms Subject to Final Court Approval. All amounts and procedures described
7 in this Settlement Agreement herein will be subject to final Court approval.

8 54. Cooperation and Execution of Necessary Documents. All Parties will cooperate in
9 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
10 Settlement Agreement.

11 55. No Press Releases/Advertisements. Neither Plaintiffs nor Plaintiffs' Counsel shall
12 issue any press release or announcement of any kind related in any way to the Settlement. Plaintiffs
13 and Class Counsel agree to limit their statements regarding the terms of the Settlement, whether oral,
14 written, or electronic (including the world wide web), to say the Class Action has been resolved and
15 that Plaintiffs and Class Counsel are satisfied with the Settlement terms. Nothing in this Section is
16 intended to interfere with Class Counsel's duties and obligations to faithfully discharge their duties as
17 Class Counsel, including but not limited to: (1) as required by law; (2) as required under the terms of
18 the Settlement; and/or (3) as required under counsel's duties and responsibilities as Class Counsel.
19 This Settlement shall not be advertised or mentioned on any source, including Plaintiffs' Counsel's
20 personal or firm website.

21 56. Binding Agreement. The Parties warrant that they understand and have full authority
22 to enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and
23 binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding
24 to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might
25 apply under federal or state law. Plaintiffs, and not their respective representative(s), must personally
26 execute this Settlement Agreement. An authorized officer of Defendant must execute this Settlement
27 Agreement on behalf of Defendant. This Agreement shall become binding and enforceable pursuant
28 to California Code of Civil Procedure section 664.6.

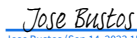
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PLAINTIFFS

Dated: September 14, 2023


Georgi Vuchkov (Sep 14, 2023 14:34 PDT)
Georgi Vuchkov

Dated: September 14, 2023


Jose Bustos (Sep 14, 2023 15:10 PDT)
Jose Bustos

COUNSEL FOR PLAINTIFFS AND CLASS

DATED: September 14, 2023

Lebe Law, APLC

By: 
Jonathan M. Lebe
Zachary T. Gershman
Ryan C. Ely

Attorney for Plaintiffs Georgi Vuchkov and
Jose Bustos, individually and on behalf of all
other similarly situated

DEFENDANT

Dated: September 14, 2023

Keith Manbeck, President
WHOLE FOODS MARKET CALIFORNIA,
INC.

COUNSEL FOR DEFENDANT

DATED: September 14, 2023

Sheppard, Mullin, Richter & Hampton, LLP

By: _____
Derek R. Havel
Matthew A. Tobias
Attorneys for Defendants Whole Foods Market
California, Inc

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Dated: September 25, 2023

Dated: September 25, 2023

DATED: September 25, 2023

DATED: September 26, 2023

DATED: September 27, 2023

PLAINTIFFS

Georgi Vuchkov

Jose Bustos

COUNSEL FOR PLAINTIFFS AND CLASS

Lebe Law, APLC

By: _____
Jonathan M. Lebe
Zachary T. Gershman
Ryan C. Ely

Attorney for Plaintiffs Georgi Vuchkov and
Jose Bustos, individually and on behalf of all
other similarly situated

DEFENDANT

DocuSigned by:

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Keith Manbeck, President
WHOLE FOODS MARKET CALIFORNIA,
INC.

COUNSEL FOR DEFENDANT

Sheppard, Mullin, Richter & Hampton, LLP

By:  _____
Derek R. Havel
Matthew A. Tobias
Attorneys for Defendants Whole Foods Market
California, Inc

EXHIBIT 1

**Georgi Vuchkov et al. v. Whole Foods Market California, Inc.,
Case No. RG21092593 (Alameda County, California Superior Court)**

**NOTICE OF CLASS ACTION SETTLEMENT
AND HEARING DATE FOR COURT APPROVAL**

TO: All persons employed by Whole Foods Market California, Inc. in the State of California as hourly non-exempt employees between March 18, 2017, to September 24, 2023, please read this Notice.

A class action lawsuit may affect your legal rights.

A California Superior Court authorized this notice. This is not a solicitation from a lawyer.

- The Superior Court of the State of California for the County of Alameda (the “Court”) has preliminarily approved a Settlement that could affect your rights. The proposed Settlement resolves a class action and Labor Code Private Attorneys General Act of 2004 (“PAGA”) action filed by Plaintiffs Georgi Vuchkov and Jose Bustos against Defendant Whole Foods Market California, Inc. (“Defendant”), Alameda County Superior Court Case No. RG1092593 (the “Action”).
- Defendant denies Plaintiffs’ allegations and maintains it has fully complied with the law. By agreeing to the Settlement, Defendant in no way admits any violation of law or any liability whatsoever to Plaintiffs or others, and it expressly denies all such liability. Both Plaintiffs and Defendant have agreed to the Settlement in light of all known facts and circumstances—including the uncertainty and cost associated with litigation.
- If the Court grants final approval of the settlement, it would provide a cash fund for members of the Class to split based on the number of relevant weeks they worked during the relevant period.
- You have been identified as a member of the class. Your rights may be affected. And you have choices to make:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
DO NOTHING	Stay in this lawsuit. Receive a settlement payment. Give up your right to sue. By doing nothing, you will receive a check for your pro-rata share of the Net Settlement Amount estimated to be [REDACTED]. You do not have to do anything else to receive payment for class action claims at issue in this lawsuit. However, you give up any rights to sue Defendant, separately about the same legal claims in this lawsuit.
ASK TO BE EXCLUDED	Get out of this lawsuit. Get no benefits from it. Keep rights other than under the PAGA. If you ask to be excluded, you won’t receive any money, except for the amount that you are owed as an aggrieved employee under the PAGA. But you keep any rights you otherwise have to sue Defendant, separately about the same legal claims in this lawsuit. To ask to be excluded, you must act before [REDACTED].
OBJECT	Object to the terms of the settlement. You may object to the class action settlement by submitting a written objection. If you object and the Court grants final approval of the class action settlement despite your

	objection, you will remain eligible to automatically receive a payment and will be bound by the class action release provisions of the settlement.
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- If the Court approves the PAGA settlement, you will receive a payment for settlement of the PAGA claim and will be bound by the PAGA release provisions of the settlement, regardless of whether you opt out of the class action settlement.

**THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION FROM THE COURT
AS TO THE MERITS OF THE CLAIMS.**

BASIC INFORMATION

1. Why did I get this notice?

The records kept by Defendant show that you were employed by the company in California as an hourly non-exempt employee during the period from March 18, 2017, through September 24, 2023. The Court has certified a class action lawsuit for purposes of a settlement that may affect you. You have legal rights and options that you may exercise at this time in the lawsuit *Georgi Vuchkov, et al. v. Whole Foods Market California, Inc.*, Case No. RG21092593, that is pending in the Superior Court for the State of California for the County of Alameda.

Because the settlement preliminarily approved by the Court would affect Settlement Class Members' legal rights, the Court ordered that this Notice be sent to you. This Notice provides a brief description of the Action, informs you of the settlement terms preliminarily approved by the Court, and advises you of your legal rights with respect to the Settlement. If the Court finally approves the settlement, the settlement will fully resolve the Action, and your legal rights may be affected by the Settlement.

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

In a class action lawsuit, one or more people called "Class Representatives" (in this case Georgi Vuchkov and Jose Bustos) sue on behalf of other people who are alleged to have similar claims. The people together are a "Class." The Class Representatives who sue are called Plaintiffs. The entity they sued (in this case Whole Foods Market California, Inc.) is called the Defendant. One court resolves the issues for everyone who does not exclude themselves..

3. Why is this lawsuit a class action?

To facilitate the settlement reached between the parties and for purposes of the settlement only, the Court has preliminarily decided that this lawsuit can proceed as a class action because it meets the requirements of California Code of Civil Procedure, section 382, which governs class actions. Specifically, the Court found that there are a sufficient number of people who were subject to the alleged employment policies at issue in this case, that there are legal questions common to each of them, that the Class Representatives will fairly and adequately represent the interests of the Class; and that this class action will be more efficient than having many individual lawsuits.

4. What is this lawsuit about?

Plaintiffs claim Defendant violated the California Labor Code and the California Business and Professions Code and that they are entitled to seek penalties under PAGA for alleged violations of the California Labor Code. Plaintiffs allege Defendant at times paid non-exempt employees less than the minimum wage; failed to pay non-exempt employees for all hours worked; failed to provide non-exempt employees uninterrupted meal and rest breaks; failed to pay non-exempt employees for meal and rest breaks that were interrupted or missed; failed to pay non-exempt employees for unused vested vacation wages; failed to pay sick pay at the proper rate; failed to reimburse non-exempt employees for business-related use of their personal cell phones; failed to provide accurate, itemized wage statements; and failed to pay all wages owed at the time non-exempt employees terminated or separated their employment.

5. What is the Plaintiffs asking for?

Plaintiffs' claims are brought under the California Labor Code, the California Business and Professions Code, and the PAGA. Under those laws, Plaintiffs may seek to recover unpaid wages, liquidated statutory damages, statutory penalties, other economic losses, and civil penalties. Plaintiffs are also asking for their reasonable attorneys' fees and the costs of the lawsuit to be paid by Defendant.

6. What is the position of Defendant?

Defendant contends its policies were lawful and that all non-exempt employees were properly compensated under the California Labor Code. Further, Defendant denies that it violated the California Labor Code, the California Business and Professions Code, or any other California law, and it denies that penalties are appropriate under the PAGA.

7. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Defendant. Instead, both sides agreed to a settlement. The Class Representatives and Class Counsel think the settlement is in the best interests of the Class.

8. Is there any money available from the settlement?

To settle this case, Defendant has agreed to pay a total of \$7,400,000.00 ("Class Settlement Amount"). Class counsel has requested that the following amounts be paid out from the Class Settlement Amount in addition to the payments made to the Class: (1) \$150,000 in Settlement Administration Costs to Rust Consulting Inc., (2) \$375,000 to the California Labor and Workforce Development Agency for PAGA penalties, (3) \$15,000 service payments to each of the Class Representatives, (4) Class Counsel's costs of no more than \$40,000, and (5) Attorneys' Fees for Class Counsel of no more than \$2,590,000. All members of the Class who do not opt-out of the Class will receive an amount calculated based on the number of weeks worked during the relevant time period. Based on Defendant's records, you are expected to receive an allocation based on approximately [] total weeks worked during the period between March 18, 2017, through September 24, 2023.

9. What if I disagree with the number of weeks worked shown above?

If you dispute the number of weeks worked as shown on this Notice, you may produce evidence of the number of workweeks you think you are entitled to and mail it to the settlement administrator postmarked on or before [date], to: [Settlement administrator information]

The settlement administrator will notify you of the decision related to any dispute of your weeks worked.

10. How will taxes be handled on the money?

For tax purposes, settlement payments to each Class Member shall be allocated seventy percent (70%) to penalties and interest to be paid as one check and reported on a 1099 Form; and thirty percent (30%) to wages to be paid as another check and reported on a W-2 Form. . You will be responsible to pay any income taxes required on the payment you receive.

YOUR RIGHTS AND OPTIONS

11. What happens if I do nothing at all?

If the Court issues final approval of the settlement, you will receive a check for your respective settlement amount. You will also be bound by any orders the Court issues in this case and you will be forever barred from suing Defendant for the conduct at issue during the time periods at issue in this lawsuit.

12. Why would I ask to be excluded?

If you already have your own lawsuit against Defendant about the same claims in this lawsuit and want to continue with it, you need to ask to be excluded from the Class. If you exclude yourself, you will not be legally bound by the Court's judgment in this case. If you start your own lawsuit against Defendant after you exclude yourself, you will have to hire and pay your own lawyer for that lawsuit and you will have to prove your claims. If you do exclude yourself so you can start or continue your own lawsuit against Defendant, you should talk to your own lawyer soon because your claims may be subject to a statute of limitations.

13. How do I ask the Court to exclude me from this case?

To ask to be excluded, you must send an “Opt-Out Request” to Rust Consulting, Inc. in the form of a letter sent by mail or fax, stating that you want to be excluded from this case. Be sure to include your name, address, telephone number, the last four digits of your social security number or EIN number and sign the letter. Your Opt-Out Request must be postmarked on or before [date] and sent to: [Settlement Administrator Information]

RELEASE OF CLAIMS

14. What claims am I releasing?

Upon the date the settlement becomes effective (“Effective Date”), all Class Members who do not opt out of the Settlement fully and finally release Defendant and the Released Parties from any and all Class Released Claims. The Class Released Claims include all claims asserted in the operative, Third Amended Complaint, arising from or related to the facts and claims alleged in the Third Amended Complaint, or that could have been raised in the Action based on the facts and claims alleged in the Third Amended Complaint.. The Class Released Claims include all claims under the California Labor Code, the applicable Wage Orders of the Industrial Welfare Commission, the California Private Attorneys General Act of 2004 (“PAGA”), and the California Business and Professions Code Section 17200, *et seq.* asserted in or related to the facts and claims alleged in the Third Amended Complaint, including but not limited to: (i) failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; (ii) the calculation and payment of the regular rate of pay; (iii) missed meal period and rest-period premiums, including failure to pay premiums at the regular rate of compensation; (iv) the provision of wage statements; (v) the alleged failure to pay vested, unused vacation pay; (vi) the alleged failure to pay sick leave pay at the regular rate of pay; (vii) reimbursement for all necessary business expenses; (viii) payment for all hours worked, including off-the-clock work; (ix) deductions; (x) failure to keep accurate records; (xi) unfair business practices; (xii) penalties, including, but not limited to, civil penalties, statutory penalties, recordkeeping penalties, minimum-wage penalties, wage statement penalties, and waiting-time penalties; (xiii) attorneys’ fees and costs; and (xiv) all derivative claims. This release excludes the release of claims not permitted by law.

THE LAWYERS AND PLAINTIFFS REPRESENTING YOU

15. Do I have a lawyer in this case?

The Court decided that the law firm of Lebe Law, APLC, is qualified to represent you and all Class Members. Jonathan M. Lebe, Zachary Gershman, and Ryan Ely of Lebe Law, APLC, 777 S. Alameda St. Second Floor, Los Angeles, CA 90021, were appointed as Class Counsel by the Court. More information about the law firm and Class Counsel is available at www.lebelaw.com.

16. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. If you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

17. How will Class Counsel and Plaintiffs be paid?

Class Counsel will ask the Court for attorney’s fees up to 35% of the settlement as well as their reasonable costs, and a payment of \$15,000.00 each as an enhancement award to both Class Representatives. Defendant has agreed not to oppose these requests. The Court may award less than these amounts.

OBJECTING TO THE SETTLEMENT

18. How do I tell the Court that I don’t like the settlement?

If you are a Class Member, you can object to the settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it, either in writing or orally at the Final Settlement Approval and Fairness Hearing. If you properly present your objection, the Court will consider your views. Any such written objection must

be filed by mailing or faxing the objection to the Settlement Administrator, on or before [date], at: [Settlement Administrator Address and Fax Number]

To be valid, any written objection must: (1) contain the objecting Class Member's full name and current address, as well as contact information for any attorney representing the objecting Class Member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; (4) be postmarked no later than [] ; and (5) reference to "*Georgi Vuchkov, et al. v. Whole Foods Market California, Inc.*, Case No. RG21092593."

Any attorney you may hire for the purpose of making an objection must file his or her Entry of Appearance thirty (30) days before the Final Settlement Approval and Fairness Hearing, on or before [date]. The Entry of Appearance shall be filed with the Clerk of the Court with a copy served upon Class Counsel and Defense Counsel in accordance with the California Code of Civil Procedure.

Notwithstanding the above, any Class Member who does not otherwise exclude themselves from the Settlement may also appear at the Final Settlement Approval and Fairness Hearing and voice an oral objection. If written objections are filed, the parties may engage in discovery about the filed objections before the Final Settlement Approval and Fairness Hearing.

If you object, you will remain bound by the class action settlement if finally approved.. If you do not want to be bound by the class action settlement if finally approved, you must opt out of the class action settlement. Regardless of whether you object to the class action settlement, you will be bound by the PAGA settlement if approved.

19. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FINAL SETTLEMENT APPROVAL AND FAIRNESS HEARING

20. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Settlement Approval and Fairness Hearing on [date] in the Oakland—Administration Building, 1221 Oak Street, Department 17, Oakland, California 94612. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Judge will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement.

21. Do I have to come to the hearing?

No. Class Counsel will answer questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

GETTING MORE INFORMATION

22. Are more details available?

This Notice summarizes the settlement. More details are in the Joint Stipulation and Settlement of Class Action and Private Attorneys General Act Representative Claims. You can get a copy of the Stipulation, and also be informed if the Final Settlement and Approval is continued to a later date, by accessing the website maintained for this Action by Rust Consulting, Inc. at: [Settlement Admin Website]

You can also get more information about the settlement by contacting Class Counsel, Jonathan M. Lebe, Zachary Gershman, and Ryan Ely at:

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**PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION REGARDING THIS
SETTLEMENT.**