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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **FOR THE COUNTY OF LOS ANGELES-CENTRAL**

9 JOSE MARTINEZ, an individual,

10  
11 Plaintiff,

12 vs.

13 EXPRESSION IN WOOD, INC., a California  
14 corporation; and DOES 1 through 100, inclusive,  
15 Defendants.

Case No.: 21STCV00169

[Assigned for all Purposes to the Hon. Armen  
Tamzarian, Department 52]

**JOINT STIPULATION; [PROPOSED]  
ORDER**

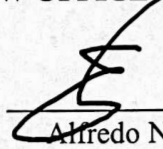
**TO THE COURT, ALL PARTIES, THEIR COUNSEL OF RECORD:**

The parties stipulate and agree that the Court should approve the settlement on the terms stated and contained, and as set forth in Exhibit A. The parties request approval of the allocation set forth in the agreement. In addition, the parties request that the Court dismiss the case no earlier than thirty days, with prejudice, only after the signature and entry of the order. The parties also request that the Court retain jurisdiction per CCP Section 664.6.

It is so stipulated.

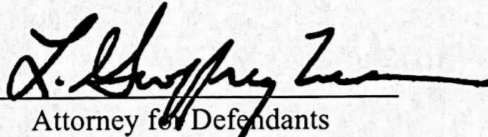
Dated: February 15, 2022

Respectfully submitted,  
**LAW OFFICE OF ALFREDO NAVA JR.**

By:   
Alfredo Nava, Esq.  
Attorney for PLAINTIFF  
JOSE MARTINEZ

Dated: February 15, 2022

**GORDON REES SCULLY MANSUKHANI, LLP**

By:   
Attorney for Defendants

**[PROPOSED] ORDER**

After having reviewed the parties' stipulation, IT IS HEREBY ORDERED as follows:

The Parties' Stipulation and Request for Approval of Settlement is GRANTED in its entirety.

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**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
THE HONORABLE ARMEN TAMZARIAN  
JUDGE OF THE SUPRIOR COURT

# EXHIBIT A

## **SETTLEMENT AND RELEASE**

This Settlement and Release (hereinafter “Settlement” or “Agreement”) is made and entered into by and between Plaintiff JOSE MARTINEZ (hereinafter “Plaintiff” or “Martinez”), individually and on behalf of all aggrieved employees, on the one hand, and Defendants EXPRESSION IN WOOD, INC., NATHAN COVEY, AND DARRELL C. COVEY (“Defendants”), on the other hand. Plaintiff and Defendants are collectively referred to herein as “the Parties.”

This Settlement shall be binding on Plaintiff and the PAGA Members (as defined below) and on Defendants and its present and former parent divisions, shareholders, officers, directors, employees, agents, attorneys, insurers, successors, and any individual which could be jointly liable with Defendants, subject to the terms and conditions hereof and the approval of the Court and the Labor & Workforce Development Agency.

### **I. NATURE OF ACTION**

1. On March 11, 2021, Plaintiff sent notice to the Labor & Workforce Development Agency (“LWDA”) giving notice of his intent to pursue a representative action pursuant to the Private Attorneys General Act of 2004 (“PAGA”), as codified in California Labor Code § 2698 *et seq.*, on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees.

2. After a minimum of 65 days passed without a response from the LWDA to Plaintiff’s written notice, Plaintiff commenced a putative representative action on June 21, 2021 under the PAGA for alleged violations of Labor Code § 226(a) on behalf of himself and other allegedly aggrieved employees. For purposes of this Settlement, the PAGA Members are defined as: all individuals who were employed by Defendant within the State of California who worked one or more pay periods from April 17, 2020 through October 31, 2021 (the “PAGA Members”).

## II. REPRESENTATIONS AND DEFINITIONS

3. “Lawsuit” refers to the civil action filed on June 21, 2021 via Second Amended Complaint in the litigation, entitled *MARTINEZ V. EXPRESSION IN WOOD, INC.*, Los Angeles County Superior Court, Case No. 21STCV00169

4. “PAGA Counsel” shall refer to Alfredo Nava of Law Office of Alfredo Nava Jr.

5. “Counsel for Defendant” and “Defense Counsel.” shall refer to L. Geoffrey Lee of Gordon Rees Scully Mansukhani LLP.

6. “Covered Period” shall mean the period from April 17, 2020 through the date of approval of the settlement by the Superior Court.

7. “PAGA Representative” or “Plaintiff” shall refer to Named Plaintiff Jose Martinez.

8. “Court” refers to the Los Angeles County Superior Court.

9. “Mediator’s Proposal” shall mean and refer to the proposal by mediator Judge Michael Latin (Retired) to bridge the gap in the final settlement positions by Plaintiff and Defendants at the December 14, 2021 mediation.

10. “Covered Claims” means claims brought pursuant to Labor Code Section 2698 *et seq.*, based on the facts and theories set forth in the Lawsuit and the underlying LWDA charge.

11. “Eligible Pay Periods” means the total number of pay periods that each PAGA Member during the Covered Period.

12. “Settlement” shall mean this Settlement and Release Agreement.

13. The Effective Date of the Settlement embodied in this Agreement will be the date the Court has approved the settlement in writing (hereinafter the “Effective Date”).

14. Plaintiff alleges that Expression in Wood, Inc. engaged in a practice of failing to provide accurate wage statements in violation of Labor Code Section 226(a) by not identifying

all information required therein. Plaintiff further alleges that Defendant failed to comply with Labor Code section 510 by failing to pay for all minutes of overtime worked.

15. Plaintiff alleges that this underlying conduct gives rise to a claim pursuant to Labor Code Section 2699, et seq.

16. After the case was at issue, the Parties engaged in discovery and began to engage in informal arms' length settlement discussions. Through the exchange of information and attendant discussions between the Parties, Plaintiff learned that the number of PAGA Members is approximately 41 (including Plaintiff) and the number of pay periods is 2,978. Defendant also provided one year's worth of clock and payroll records for 8 sampled PAGA Members.

17. PAGA Counsel considered the following facts and arguments raised by Defendant, as well as the Court's general prerogative to dwindle available penalties pursuant to statutory authority as set forth in Labor Code Section 2699, as follows:

a. Defendant's Legal Defenses: Defendants cited to case law (*Culley/Rodriguez/Wert*) for their contention and proposition that PAGA is not applicable to the nature of wage statement violations alleged here.

b. Defendant's Factual Defenses. Defendant maintains that the itemized wage statements issued to Plaintiff and PAGA Members were in substantial compliance with Labor Code § 226(a). Defendant further maintains that if a Court determined that there was any violation, it would be only a technical violation of Labor Code § 226(a) that did not merit the imposition of significant penalties. In accordance with the PAGA (Labor Code § 2699(e)(1) and (e)(2)), the court in a PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner would have, as well as complete discretion to "award a lesser amount than the maximum civil penalty amount specified [by PAGA] if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." Defendant maintains that it demonstrated minimal injury, including the fact that many minutes worked under 8 hours a day were still paid as 8 hours worked.

Defendant also maintained that meal periods were not recorded due in fact by the ceasing of operations for thirty minutes in a workday, meal periods that would not be recorded or be required to be recorded in accordance to all applicable wage orders as set forth in section 7 of the wage orders. If this were in fact true, it could very well be the case that proving Plaintiff's claims and the extent of diminished time would be undermined by the inaccurate records. No less important, Defendant produced several statements by third party purported witnesses that could potentially undermine the credibility of Plaintiff.

c. Defendant's Ability to Pay. Expression in Wood, Inc. has asserted significant financial losses in 2021, largely due to the COVID-19 pandemic. As such, PAGA Counsel has also factored in the limited ability to collect on judgment.

18. Consequently, while PAGA Counsel disagreed with Defendant's legal analysis above, PAGA Counsel anticipated that, at trial, Defendant could make a potentially persuasive argument that the Court should exercise its discretion under PAGA to significantly reduce any penalties under PAGA. In consideration of the foregoing facts and arguments and how they might impact any judgment ultimately awarded to PAGA Members if the Court was persuaded by them, PAGA counsel and Plaintiff accepted what the esteemed mediator could obtain. In light of these risks and given that PAGA gives the Court broad discretion to reduce any penalties ultimately awarded, PAGA counsel and Plaintiff seek approval of this agreement.

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

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

21. Based on their own independent investigations and evaluations, as well as through mediation with a neutral attorney who specializes in PAGA claims, Defendants and

Plaintiff and their respective counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Settlement Agreement is adequate, based on a combination of financial factors, Court discretion, and potential defenses.

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

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

### **III. TERMS OF SETTLEMENT**

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

25. The Amount of Settlement. As consideration for the settlement described herein and the release contained in this Settlement, and pursuant to the accepted Mediator's Proposal, Expression in Wood agrees to pay a total settlement of **\$100,000** ("Settlement Payment"). The Settlement Payment will be allocated as follows:

- (a) To Plaintiff Jose Martinez \$95,000.00 for his lead participation in the case, his individual Labor Code penalties, and his wrongful termination claims, which includes Plaintiff counsel's attorney's fees and costs and shall be divided pursuant to Plaintiff's retainer agreement with his counsel; and
- (d) the remainder of the Settlement Payment (**\$5,000**) shall be designated as PAGA Penalties to be allocated between the LWDA and the PAGA Members pursuant to Labor Code section 2699(i).

26. Allocation and Calculation of the PAGA Penalties. Each PAGA Member shall receive a portion of the PAGA Penalties on a pro-rata basis from the Defendant either in the mail or alongside the normal paycheck. The anticipated total PAGA Penalty Fund will be \$5,000. Seventy-Five percent (75%) of the PAGA Penalty Fund (\$3,750) will be paid to the LWDA as required by Labor Code section 2699(i). The remaining Twenty-Five percent (25%) of the PAGA Penalty Fund (\$1,250) will be distributed to PAGA Members on a pro-rata basis based on the formula set forth below. Each PAGA Member's pro-rata share of the PAGA Penalty Fund represents their Individual Settlement Payment.

- (a) Individual Settlement Calculation. Each PAGA Members shall receive a pro rata share of the 25% of the PAGA Penalty Fund allocated to PAGA Members (\$1,250). Each PAGA Member shall receive a pro rata value equal to PAGA Members' 25% of the Penalty Fund multiplied by the ratio of (a) the number of Eligible Pay Periods worked by that employee to (b) the total number of Eligible Pay Periods worked by all employees included in the PAGA Member group. All Individual Settlement

Payments made to PAGA Members will be reported on an IRS Form 1099.

- (b) Fair Formula. The Parties recognize and agree that the precise value of each PAGA Member's Individual Settlement Payment is subject to a variety of differing calculations and formulas. The Parties hereby agree that the formula for allocating payments as provided herein is reasonable and designed to provide a fair settlement to the PAGA Members.

27. PAGA Counsel's Fees and Costs. Any attorneys' fees and costs awarded to PAGA Counsel, hereinafter referred to as "PAGA Counsel Fees & Costs," shall fully compensate and reimburse PAGA Counsel for any and all of the work already performed in connection with the Lawsuit and all work remaining to be performed in fully and finally resolving the Lawsuit, including but not limited to securing Court approval of the settlement, appearing at hearings, making sure that the settlement is fairly and properly administered, defending the settlement in any appeal or other post-approval matter, all other work that PAGA Counsel has performed or will perform, and all costs that PAGA Counsel has incurred or will incur.

28. Tax Treatment of Settlement Amounts. With regard to settlement payments to PAGA Members and Plaintiff, IRS Form 1099s, or other appropriate forms, will be issued to the extent permissible by law in lieu of 1099. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that he has obtained no tax advice from Defendant and that neither Defendant nor its attorneys has made any representation concerning the tax consequences, if any, of the Settlement Amount in this Agreement or any payment to be made pursuant to this Agreement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendant is not responsible for any employee tax obligations regarding the allocation of the

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

#### **IV. RELEASE**

29. Release By All PAGA Members. Upon the approval by the Court, each PAGA Member (including Plaintiff), shall, for the Covered Period, fully release and forever discharge Defendants and its present and former divisions, shareholders, officers, directors, employees, agents, attorneys, insurers, successors, and any individual or entity which could be jointly liable with Defendants ("Releasees") from the Covered Claims, and from any and all PAGA penalties based on any claims or any nature that were asserted or could have been asserted based on the facts alleged in the Complaint pursuant to Labor Code Section 2699.

30. General Mutual Releases by Parties. In addition, in connection with Plaintiff's Released Claims, MARTINEZ hereby irrevocably and unconditionally releases and forever discharges Defendants, and further including each of its related and affiliated parent and sister organizations and each of their current and former agents, spouses, members, directors, officers, employees, representatives, attorneys, insurers (including Travelers), reinsurers, shareholders, benefits plans, predecessors, successors and assigns, and all persons acting by, through, under or in concert with any of them (collectively "Releasees"), or any of them, from any and all actions, causes of action, suits, debts, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages and expenses (including attorneys' fees and costs actually incurred), of any nature whatsoever, in law or equity, known or unknown, fixed or contingent, suspected or unsuspected, which MARTINEZ ever had or has, up to the date of the execution of this Agreement, against Releasees, by reason of any act, event or omission concerning any matter or thing, including, but not limited to those claims set forth in the Action, and without limiting the generality of the foregoing, his employment or separation of such employment, including any claims arising from any alleged violation by Releasees, or any of them, of any federal, state or local statutes, ordinances or common law, including but not limited to, Title VII of the Civil

Rights Act of 1964, the California Fair Employment and Housing Act, the California Labor Code, the California Government Code, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Employee Retirement Income Security Act (ERISA), the Family and Medical Leave Act, the California Family Rights Act, the California Wage Orders, and including all other actions in contract or in tort, including but not limited to claims based on wrongful discharge, violation of public policy, harassment, discrimination, failure to accommodate, retaliation, whistleblower claims, blacklisting, defamation, libel, slander, unfair business practices, breach of contract, interference with contract or prospective economic relationship, infliction of emotional distress, invasion of privacy, and/or negligence, and including any and all claims for lost wages, overtime, bonuses, business or vehicle expenses, penalties for late payment of final wages, emotional distress, pain and suffering, medical expenses, non-pecuniary damages, attorneys' fees, costs and actual, compensatory, statutory and punitive damages, and further including any purported breach of Defendants' own policies, procedures or purported express or purported implied agreements or purported contracts between MARTINEZ and Defendants and/or any of the other named Releasees.

31. In accordance with the federal Older Workers' Benefit Protection Act of 1990, MARTINEZ acknowledges that he is aware of the following with respect to his release of any claims under the federal Age Discrimination in Employment Act (ADEA): (1) he has the right to consult with an attorney before signing this Agreement, and that to the extent, if any, MARTINEZ has desired, he has done so; (2) MARTINEZ has twenty-one (21) days to review and consider his release of any ADEA claims, and he may use as much of this twenty-one (21) day period as he wishes prior to signing; (3) for a period of seven (7) days following execution of this Agreement, MARTINEZ may revoke his waiver of any ADEA claim and that waiver shall not become effective or enforceable with respect to the claims under the ADEA until the revocation period has expired; (4) this release and waiver will become effective as to any ADEA claim eight (8) days after it is signed by MARTINEZ and Defendants, and in the event

the Parties do not sign on the same date, then this Agreement shall become effective as to any ADEA claim eight (8) days after the date it is signed by MARTINEZ. In addition, it is agreed and understood between the Parties that in the event MARTINEZ timely revokes his release/waiver of any age discrimination claims, this Agreement shall have no force or effect and MARTINEZ shall not have any right to receive any compensation or payment referred to herein.

Conversely, Defendants hereby irrevocably and unconditionally releases and forever discharge MARTINEZ and his attorney from any and all actions, causes of action, suits, debts, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages and expenses (including attorneys' fees and costs actually incurred), of any nature whatsoever, in law or equity, known or unknown, fixed or contingent, suspected or unsuspected, which Defendants ever had or have, up to the date of the execution of this Agreement, against them, by reason of any act, event or omission concerning any matter or thing. This general release does not apply as to rights between the respective Defendants.

The Parties also expressly waive the rights provided under California Civil Code Section 1542, which states that:

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.

The Parties understand the significance and consequences of a California Civil Code Section 1542 waiver, and understand and hereby waive all claims, known or unknown, suspected or unsuspected against Defendants or Plaintiff.

Nothing contained in this Agreement shall be deemed a release or waiver by Plaintiff of claims Plaintiff may have against any Releasees for: (a) unemployment, disability, and paid

family leave insurance benefits pursuant to the terms of applicable California law; (b) workers' compensation insurance injury or pay benefits pursuant to Division 4 of the California Labor Code, under the terms of any worker's compensation insurance policy or fund of the Plaintiff; and (c) any claims that, under applicable federal, state, or local law, are not waivable.

The Parties covenant and agree that they will keep the terms, amounts, and facts set forth in this Agreement, as well as the negotiations giving rise to it, and this Agreement itself, confidential and, except as otherwise expressly provided herein in this agreement, will not hereafter disclose any information concerning this Agreement or the negotiations giving rise to it to any person or entity unless contained within an exception of this agreement. However, the Parties may disclose the actual settlement agreement, the terms and facts of this settlement agreement to the court, the LWDA, the LWDA website, accountants, the IRS, tax advisors, financial advisors, lenders, attorneys and spouse and support staff, referring attorneys, if any. Defendants may also disclose the terms and facts of this Agreement to its officers, directors or other personnel who need to know. Plaintiff may also file a notice of conditional settlement or notice of settlement in Court.

Plaintiff further acknowledges that he is not eligible for re-hire in light of Labor Code section 1002.5. As such, Defendants shall have no obligation or liability for failure to hire or re-hire Plaintiff in the future.

## **V. APPROVAL STIPULATION**

32. The Parties recognize that in accordance with Labor Code Section 2699(*I*) Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court* (2009) 46 Cal.4th 969, the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement thorough a motion for preliminary or final approval. Instead, in order to comply with the requirements of Labor Code Section 2699(*I*), the Parties shall submit a joint stipulation, and can do so via ex parte application or noticed motion, to the Court, also submitting this Settlement and Release agreement and requesting that the Court

approve the settlement agreement. The Settlement is contingent upon the approval by the Court. If the Court should fail to approve this Settlement in the form agreed to by the Parties, the Parties agree to coordinate efforts to address the Court's questions or concerns and resubmit the Approval Stipulation; again, nothing in this agreement shall prevent Plaintiff and his counsel from speaking or talking, or submitting paperwork to the Court for purposes of obtaining approval of the settlement. Plaintiff, however, is not required to take a lower allocation of money allocated to his claims. If, after the Parties make a second attempt to obtain approval of the terms of the Settlement, the Court fails to approve this Settlement in the form agreed to by the Parties, then this agreement shall be null and void as if never entered into, and Plaintiff shall be allowed to continue to prosecute his claim as if an agreement was never entered into with Defendants and releasees.

#### **VI. ADMINISTERING THE SETTLEMENT**

33. Within five (5) calendar days after the Court's written approval of the settlement, Defendant will compile a PAGA Member list ("PAGA Member List") containing: (1) name; (2) last known home address and telephone number; (3) number of pay periods as a PAGA Member during the Covered Period; and (4) social security number. The PAGA Member List will note whether each PAGA Member is a current or former employee. Neither the PAGA Member List nor any information contained therein shall be distributed to PAGA Counsel at any time.

34. Defendant expressly reserves the right to object to payment to any PAGA Member who has separately settled or waived any Covered Claims.

35. Within ten (10) calendar days after the Court signs the Approval Order, Defendants will issue payment to Plaintiff and PAGA Counsel. Within fifteen (15) days of the Approval Order, Defendants will cut payment checks for all PAGA Members designated as current employees in the PAGA Member List. Defendants shall then mail the payment checks to all PAGA Members who are former employees of Defendant Expression in Wood, Inc. Said Defendant shall send the payment checks to all PAGA Members who are former employees of Defendant by U.S. First Class mail to each former employee PAGA Member's address with

directions to the Postmaster to forward the payment checks and hold all undeliverable payment checks. It will be conclusively presumed that a PAGA Member's individual Settlement Payment check was received if the payment check has not been returned within thirty (30) days of the original mailing of the payment check. The date of the initial mailing of the payment checks to former employee PAGA Members shall be conclusively determined according to the records of the Defendant.

36.

Within twenty (20) calendar days after the Court signs the Approval Order thereon, Defendant shall send the payment checks to all PAGA Members who are current employees of Defendant.. It will be conclusively presumed that a PAGA Member's individual Settlement Payment check was received if the payment check has not been returned within thirty (30) days of the original distribution date of the payment check. The date of the initial distribution of the payment checks to current employee PAGA Members shall be conclusively determined according to the records of Defendant.

Defendant shall insure that 75% of the PAGA Penalty Fund is paid to the LWDA.

Settlement checks shall remain valid and negotiable for one hundred twenty (120) calendar days from the date of their issuance. If there are uncashed checks following this period, the Defendant will ensure that uncashed funds shall be forwarded the State of California Department of Industrial Relations Unclaimed Wages Fund in the name of the PAGA Member who did not cash his or her Individual Settlement Payment check.

## **VII. DUTIES OF THE PARTIES PRIOR TO APPROVAL**

37. Promptly upon execution of this Settlement, the Parties shall jointly apply to the Court via the Approval Stipulation for approval of the proposed Settlement. The Parties shall apply to the Court for the entry of an order approving this Settlement as required by Labor Code section 2699(l). The Approval Stipulation will request Court approval of the following:

- a. Approving the settlement and allocation; and
- b. Dismissing the Lawsuit with prejudice 30 court days from the date of the

approval, with the Court retaining jurisdiction pursuant to CCP Section 664.6;  
with

38. Concurrently with the submission to the court, Plaintiff shall transmit a copy of the proposed settlement to the LWDA as required by law. Plaintiff and his counsel shall then be allowed to submit any information required or permitted to be submitted to the LWDA pertaining to the approval of the settlement or as required by the PAGA statute. Plaintiff, however, is not required to take a lower allocation of money allocated to his claims.

#### **VIII. PARTIES' AUTHORITY**

39. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions hereof.

#### **IX. MUTUAL FULL COOPERATION**

40. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein. As soon as practicable after execution of this Settlement, PAGA Counsel shall, with the assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the approval of this Settlement from the Court.

#### **X. NO PRIOR ASSIGNMENTS**

41. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged to any person unaffiliated with the litigation, which would not include any potential assignments to counsel or referring counsel..

#### **XI. NO ADMISSION**

42. Nothing contained herein nor is the consummation of this Settlement to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the Releasees. Each of the Parties hereto has entered into this

Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. Defendant denies that it has engaged in any unlawful activity, that it has failed to comply with the law in any material respect, or that it has any liability to anyone under the claims asserted in the Lawsuit. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendant.

### **XIII. NULLIFICATION**

43. If (a) the Court should for any reason fail to approve this Settlement in the form agreed to by the Parties, then (i) this Agreement shall be considered null and void; and (ii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.

### **XIV. ATTORNEYS' FEES, COSTS AND EXPENSES**

44. Except as specifically set forth herein, each party shall bear their own attorneys' fees, costs, and expenses, incurred by them and arising out of the Lawsuit, and shall not seek reimbursement thereof from any other party to this Agreement.

### **XV. CONSTRUCTION**

45. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arms-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff (on behalf of himself and all other PAGA Members) and Defendant regarding actual asserted by Plaintiff against Releasees. This Agreement, upon execution by all parties to the lawsuit and contingent upon approval by the Court or acceptance of the terms of the settlement agreement, and only then, will and does supersede all prior agreements, written or oral, between or among the Parties regarding those claims or potential claims and the resolution of those claims, including the agreement signed into at mediation on December 14, 2021.

### **XVI. CAPTIONS AND INTERPRETATIONS**

46. Paragraph titles or captions contained herein are inserted as a matter of

convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

## **XVII. MODIFICATION**

47. This Settlement may not be amended, changed, altered, or modified, except in writing and signed by the Parties hereto.

## **XVIII. MISCELLANEOUS**

48. No rights hereunder may be waived except in writing. The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters that would alter or change the terms of this Agreement. No representations, warranties, or inducements have been made to any party concerning this Agreement other than those expressly set forth or referred to herein.

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

50. This Settlement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be transmitted electronically (PDF) or by facsimile or by email. The parties shall execute and transmit the signed agreement to opposing counsel's office, either by facsimile or by email, and in no event, later than five days after their counsel's receipt of an executed agreement by at least one of the parties from the opposing side, represented by opposing counsel. In the event that the parties do not execute this agreement and transmit it to all of the parties through their respective counsel's

office within five days of all of the parties' execution of the agreement, the agreement shall be null and void. For example, if Plaintiff signs on December 29, 2021 and transmits the signed agreement to opposing counsel's office that represents the rest of the defendants, and one of the defendants does not sign and return the agreement to Plaintiff counsel's office within five days, the entire agreement shall be null and void. The parties will then have to resign and transmit the signed agreement to opposing counsel's office within five days of each of their respective signature and execution, and if not done so as to all parties, then the agreement shall be null and void.

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

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

53. The Los Angeles County Superior Court shall retain jurisdiction to enforce this Agreement pursuant to California Code of Civil Procedure section 664.6. This agreement constitutes a request to the Court to maintain jurisdiction pursuant to CCP Section 664.6.

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

[SIGNATURE PAGE FOLLOWS]

DATED: 02 / 12 / 2022

*Jose E Martinez*

Jose Martinez, For Himself and as a representative of other PAGA Members

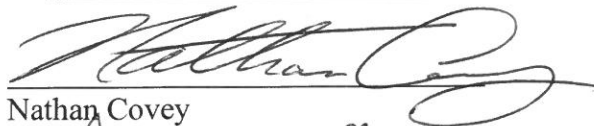
DATED: \_\_\_\_\_

EXPRESSION IN WOOD, INC.

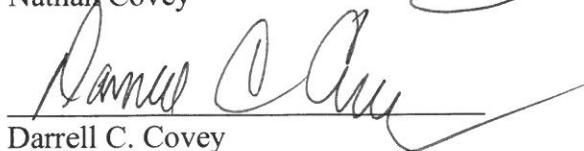
By: Nathan Covey

Its: PRESIDENT

DATED: 2/4/2022

  
Nathan Covey

DATED: 2/4/2022

  
Darrell C. Covey

THE ATTORNEYS ARE NOT SIGNATORIES TO THIS AGREEMENT. THIS AGREEMENT IS APPROVED AS TO FORM ONLY:

DATED: 2/12/22

LAW OFFICE OF ALFREDO NAVA JR.

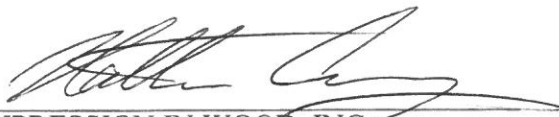
By:   
Alfredo Nava  
for Plaintiff MARTINEZ and PAGA Members

DATED: 02/09/2022

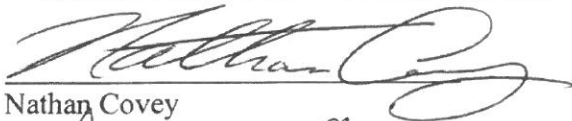
GORDON & REES

By:   
L. Geoffrey Lee  
for Defendants Expression in Wood, Inc.,  
Nathan Covey, and Darrell C. Covey

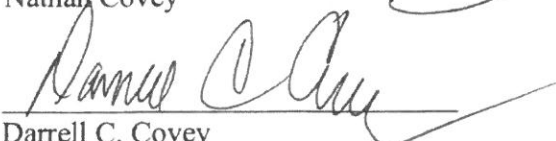
DATED: 2-4-2022

  
EXPRESSION IN WOOD, INC.  
By: Nathan Covey  
Its: PRESIDENT

DATED: 2/4/2022

  
Nathan Covey

DATED: 2/4/2022

  
Darrell C. Covey

THE ATTORNEYS ARE NOT SIGNATORIES TO THIS AGREEMENT. THIS AGREEMENT IS APPROVED AS TO FORM ONLY:

DATED: \_\_\_\_\_

LAW OFFICE OF ALFREDO NAVA JR.

By: \_\_\_\_\_  
Alfredo Nava  
for Plaintiff MARTINEZ and PAGA Members

DATED: \_\_\_\_\_

GORDON & REES

By: \_\_\_\_\_  
L. Geoffrey Lee  
for Defendants Expression in Wood, Inc.,  
Nathan Covey, and Darrell C. Covey

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**PROOF OF SERVICE**

**COUNTY OF LOS ANGELES**  
**STATE OF CALIFORNIA**

I am employed in the County of Los Angeles in the State of California. I am over the age of 18 and not a party to the within action; my business address is 3500 West Beverly Blvd., Montebello, CA 90640. On the date set forth below, I served the following documents electronically:

**JOINT STIPULATION; [PROPOSED] ORDER**

as follows:

Geoff Lee, Esq.  
glee@grsm.com

Janey Swanson, Esq.  
jswanson@grsm.com

Julie Devercelly  
jdevercelly@grsm.com

☒ By Electronic Service: Via greenfiling, an approved electronic service provider

☐ State: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 15, 2022, at Lakewood, California.

By: \_\_\_\_\_

Alfredo Nava