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10 MARCOS GARNICA

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

13 MARCOS GARNICA, as an individual and on  
14 behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 SOCAL RETAIL SERVICES, INC., a  
18 California corporation; and DOES 1  
19 through 100,

20 Defendants.

Case No.: 21STCV08762

[Assigned for all purposes to the Hon.  
Maren Nelson]

**SUPPLEMENTAL DECLARATION  
OF DANIEL J. BROWN IN SUPPORT  
OF PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: December 21, 2022  
Time: 9:00 a.m.  
Dept.: 17

Complaint Filed: March 5, 2021  
Trial Date: None Set

1  
2 I, DANIEL J. BROWN, declare as follows:

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

8 2. This declaration addresses the questions identified in the Court’s August 12, 2022  
9 Order (“Order”) requesting supplemental briefing and/or an amended Settlement Agreement  
10 regarding Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Motion”).

11 3. A true and correct copy of the fully executed amended Stipulation of Settlement  
12 (“Settlement”) addressing the issues raised in the Order is attached hereto as **Exhibit A**. A true  
13 and correct copy of the redline reflecting the changes made pursuant to the Order is attached  
14 hereto as **Exhibit B**. A true and correct copy of the amended Class Notice (“Notice”) is attached  
15 hereto as **Exhibit C**. A true and correct copy of the Request for Exclusion Form, for those  
16 putative class members who wish to opt-out of the settlement, is attached to the Class Notice as  
17 **Exhibit 1**. A true and correct copy of the redline to the Class Notice, reflecting the changes made  
18 pursuant to the Order is attached hereto as **Exhibit D**.

19 **Plaintiff’s Review of Time and Pay Records**

20 4. The Court’s Order requested information as to whether my office relied on a  
21 sample of Defendant’s time and pay records. Defendant produced all time punch records from  
22 2017 until February 11, 2022, along with wage statements, payroll summaries, and payroll  
23 registers for the vast majority, if not all, of the putative class during the class period. My office  
24 thereafter transmitted upwards of four thousand separately bates stamped documents related to  
25 the time and pay records of the putative class to expert Mr. Bennett Berger, a partner and Senior  
26 Data Analyst at Berger Consulting Group, to perform a specific analysis using Defendant’s  
27 records as outlined in the Motion (See Motion ¶ II(A)(3)), in order to arrive at class wide damages  
28 figures. Therefore, no sample utilized in connection with the proposed Settlement.

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1 and Defendant (nor any officer, director, or manager of Defendant) or their counsel. See  
2 Declaration of Lisa K. Garner in Support of Motion for Preliminary Approval of Class Action  
3 Settlement; Declaration of Jeff Coss in Support of Motion for Preliminary Approval of Class  
4 Action Settlement, filed concurrently herewith.

5 I declare under penalty of perjury under the laws of the State of California and the United  
6 States that the foregoing is true and correct. Executed on November 29, 2022, at Venice,  
7 California.



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Daniel J. Brown

# EXHIBIT A

## STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Marcos Garnica (“Plaintiff”), individually and on behalf of all members of the Settlement Class, defined below, and Defendant So Cal Retail Services, Inc. (“SCR” or “Defendant”). Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Daniel Brown and Ethan Surls of Stansbury Brown Law, PC (“Class Counsel”). SCR is represented by Lisa Garner and Thomas McMullen of Gordon Rees Scully Mansukhani, LLP.

Plaintiff filed a class action complaint (“Complaint”) against SCR on March 5, 2021, in Los Angeles County Superior Court, Case No. 21STCV08762 which alleges causes of action for: (1) minimum wage violations (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) failure to reimburse for necessary business expenses; (6) wage statement violations; (7) waiting time penalties; and (8) unfair competition.

Plaintiff filed a First Amended Class and Representative Action Complaint (“FAC”) on May 28, 2021, to add an additional cause of action for civil penalties under the Private Attorneys General Act (“PAGA”) pursuant to Labor Code Sections 2698 *et seq.* The Complaint and FAC are referred to hereinafter as the “Lawsuit”.

On March 23, 2022, the Parties attended and participated in good faith, arms’ length settlement discussions at a mediation before experienced wage & hour Mediator Tripper Ortman, Esq. Prior to mediation, the Parties conducted significant investigation of the facts and law. This included review and analysis of Defendant’s policies and putative class members’ time records and payroll records. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff’s claims, the defenses thereto, and the damages and penalties claimed by Plaintiff in the Lawsuit. As a result of the Parties thorough investigation of the allegations and defenses thereto, they were able to reach an agreement at the mediation after extensive negotiations.

Given the risks and uncertainties of litigation, the Parties have agreed to settle this Lawsuit on the terms set forth herein and subject to the approval of Court. Nothing herein shall be construed as an admission of any wrongdoing or of liability as the Settlement Agreement is intended solely to allow the Parties to buy their peace and resolve the disputed claims asserted in this Lawsuit.

**1. Certification for Settlement Purposes.** For the purposes of this Settlement Agreement only, the Parties stipulate to certification of the following Settlement Class:

1. **Settlement Class** – All individuals who worked for Defendant So Cal Retail Services, Inc. (“Defendant”) in California as non-exempt employees from March 5, 2017 through March 31, 2022 (“Settlement Class” or “Settlement Class Members”). The “Class Period” as referred to herein shall be from March 5, 2017 to March 31, 2022.

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure or Federal Rule of Civil Procedure Rule 23.

If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

## 2. Releases.

- A. **Class Releases by Settlement Class Members.** Plaintiff and every member of the Settlement Class (except those who opt out, as described below) will fully release and discharge Defendant, its past or present officers, directors, shareholders, and managers, supervisors, owners, agents, principals, heirs, representatives, and its respective successors, predecessors in interest, insurers, and attorneys (collectively the “Released Parties”) from all Released Claims. Participating Class Members release the Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action, including, any and all claims for: (a) failure to pay all regular wages, minimum wages, and overtime wages due; (b) failure to provide meal periods or compensation in lieu thereof; (c) failure to provide rest periods or compensation in lieu thereof; (d) failure to reimburse necessary business expenses; (e) failure to provide complete, accurate wage statements; (f) failure to pay wages timely at time of termination or resignation; and (g) unfair business practices that could have been premised on all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth above, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period. This release shall apply to all Participating Class Members and all claims arising during the Class Period. Separate and apart from the Released Claims by Participating Class Members, Plaintiff Garnica as an individual will provide a complete and general release of all known or unknown claims he may hold through the Effective Date of this Agreement.
- B. **PAGA Release by Aggrieved Employees.** Plaintiff and every non-exempt employee who worked for Defendant from March 5, 2020 through March 31, 2022 (“Aggrieved Employees”) will fully release and discharge the Released Parties from all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), for claims that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and ascertained in the course of the Lawsuit and the March 5, 2022 letter Plaintiff sent to the California Labor and Workforce Development Agency (“LWDA”) (“PAGA Notice”), including any and all claims for civil penalties for violations of Labor Code sections 201 - 204, 210, 226, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2699 (collectively, the “PAGA Released Claims”), regardless of whether the Aggrieved Employee opts out from the Settlement Agreement. The release period shall run from March

5, 2020 through March 31, 2022 (“PAGA Period”). Except as set forth above, Aggrieved Employees do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

- C. **Parties’ Mutual Release of Unknown Claims.** Plaintiff and SCR have agreed to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against each other and the Released Parties. Plaintiff and SCR understand that this release includes unknown claims and that he or it is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

**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.**

However, to the extent that Plaintiff or SCR has claims that cannot be released as a matter of law (i.e., workers’ compensation claims), then those claims will not be released.

- D. If SCR fails to fully fund the Settlement as provided for by this Settlement, then the releases in this Settlement will be null and void. The releases will become effective upon full payment of the Maximum Settlement Amount.

3. **Settlement Payment.** In exchange for the releases set forth in this Settlement Agreement, SCR agrees to pay a common fund of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) (the “Maximum Settlement Amount” or “MSA”) in full and complete settlement of this matter, as follows:

- A. The Maximum Settlement Amount shall be deposited with the Settlement Administrator in two (2) installments as follows: (i) SCR shall make the first installment payment of \$50,000.00 within fifteen (15) days of the date of Preliminary Approval and (ii) SCR shall pay the remainder of the MSA and its share of payroll taxes within thirty (30) days of the date of Final Approval (which, for this purpose, shall be defined as the date on which the Court enters an Order granting Final Approval, or solely in the event that there are any objections to the settlement, the filing of an objection being a prerequisite to the filing of an appeal, the later of: (i) the last date on which any appeal might be filed, or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review); The Settlement Administrator shall hold all portions of the Maximum Settlement Amount in an interest-bearing account for the benefit of the Settlement Class until the time for disbursement as called for in this Settlement Agreement.

- B. This is a non-reversionary settlement. The Maximum Settlement Amount includes:
- (1) All payments to the Settlement Class;
  - (2) All fees and expenses of the Settlement Administrator associated with the administration of the settlement, which are anticipated to be no greater than Six Thousand Five Hundred Dollars and Zero Cents (\$6,500.00).
  - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Enhancement Payment, subject to Court approval, in recognition of Plaintiff's general release of claims, contributions to the Lawsuit, and service to the Settlement Class. In the event that the Court reduces or does not approve the requested Enhancement Payment, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding;
  - (4) Up to one-third of the Maximum Settlement Amount in attorneys' fees, which is currently estimated to be Eighty Three Thousand Three Hundred Thirty Three Dollars (\$83,333.00), plus up to Twenty Thousand Dollars and Zero Cents (\$20,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. In the event that the Court reduces or does not approve Class Counsel's requested fees and costs, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding; and
  - (5) Five Thousand Dollars and Zero Cents (\$5,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$3,750.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) will be payable to the Aggrieved Employees as the "PAGA Amount."
- C. Defendant's share of payroll taxes shall be paid by Defendant separate and apart from the Maximum Settlement Amount.
- D. **Escalator Clause.** SCR represents that as of March 23, 2022, there were approximately 118 putative class members that worked a combined 7,685 work weeks during the class period. If either the actual number of class members is ten percent (10%) more than 118 or the number of work weeks worked during the class period is ten percent (10%) more than 7,685 work weeks, SCR shall increase the MSA on a pro-rata basis equal to the increase in the number of class members and/or work weeks if the number of class members or number of work weeks is greater than 10% (e.g., if the number of work weeks or class members increases by 11%, SCR will increase the MSA by 1%; e.g., if the number of work weeks or class members increases by 25%, SCR will increase the MSA by 15%).

4. **Settlement Award Procedures.** Settlement Class Members are not required to submit a claim form to receive their Individual Settlement Award. Individual Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for the Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, and Class Counsel's costs. The remaining amount shall be known as the "Net Settlement Fund."
- B. From the Net Settlement Fund, the Settlement Administrator will calculate each Settlement Class Member's Individual Settlement Award.

Settlement Awards shall be based on the following formula:

- i. Waiting Time Amount: Twenty percent (20%) of the Net Settlement Fund shall be designated as the "Waiting Time Amount." Each participating Settlement Class Member who separated their employment from SCR at any time from March 5, 2018 through March 31, 2022 ("Waiting Time Period"), shall receive an equal, pro-rata share of the Waiting Time Amount.
  - ii. Wage Statement Amount: Fifteen percent (15%) of the Net Settlement Fund shall be designated as the "Wage Statement Amount." Each participating Settlement Class Member who was employed by SCR at any time from March 5, 2020 through March 31, 2022 shall receive a portion of the Wage Statement Amount proportionate to the number of pay periods that he or she worked during the period from March 5, 2020 through March 31, 2022 ("Wage Statement Period").
  - iii. The remainder of the Net Settlement Fund shall be distributed to each participating Settlement Class Member based on their proportionate share of Eligible Workweeks (defined below) during the Class Period, by multiplying the remaining Net Settlement Fund by a fraction, the numerator of which is the participating Settlement Class Member's Eligible Workweeks during the Class Period, and the denominator of which is the total Eligible Workweeks of all participating Settlement Class Members during the Class Period.  
  
An "Eligible Workweek" shall be any workweek in which the Class Member worked at least one day during the workweek based on SCR's records.
- C. PAGA Amount: Each Aggrieved Employee who was employed by SCR at any time from March 5, 2020 through March 31, 2022, shall receive a portion of the One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) of the Net Settlement Fund that has been designated as the "PAGA Amount" proportionate to

the number of pay periods that he or she worked during the period from March 5, 2020 through March 31, 2022 (“PAGA Period”).

- D. Within ten (10) days following the full funding of the Maximum Settlement Amount with the Settlement Administrator by SCR, the Settlement Administrator will calculate Individual Settlement Award amounts and mail Individual Settlement Awards to participating Settlement Class Members and transfer to Class Counsel its attorney’s fees and verified costs.
- E. For purposes of calculating applicable taxes and withholdings for the Settlement Class Members, twenty percent (20%) of each Individual Settlement Award shall be designated as wages subject to W-2 reporting and normal payroll withholdings; the remaining eighty percent (80%) of each Individual Settlement Award shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings. Notwithstanding the treatment of the payments to each Settlement Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans. Additionally, 100% of the PAGA Amount paid to Aggrieved Employees shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings.
- F. Each Settlement Class Member who receives an Individual Settlement Award must negotiate the settlement check within one hundred eighty (180) days from the date of issuance. The one hundred eighty (180) day expiration of the settlement checks will be pre-printed on the front of the settlement check. Any funds payable to Settlement Class Members whose checks are not negotiated within one hundred eighty (180) days period will not be reissued and will be transferred by the settlement administrator to Inner City Law Center, a nonprofit poverty-law firm serving the poorest and most vulnerable residents of Los Angeles as a *cy pres*.
- G. Neither Plaintiff nor SCR shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by his or its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Class Counsel’s Attorneys’ Fees and Litigation Costs.** The Parties agree upon a total award of attorneys’ fees to Class Counsel of one-third of the Maximum Settlement Amount, which is currently estimated to be Eighty-Three Thousand Three Hundred Thirty-Three Dollars (\$83,333.00), plus up to Twenty Thousand Dollars and Zero Cents (\$20,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court’s approval of this Settlement Agreement, including any objections raised, responses to any intervenors and any appeals necessitated by those objections or intervenors. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when it pays the fee award as approved by the Court.

6. **Plaintiff's Enhancement Payment.** The Parties agree to a Class Representative Enhancement Payment for Plaintiff of Five Thousand Dollars and Zero Cents (\$5,000.00) in exchange for the general release of his claims, his time and risks in prosecuting this case, and his service to the Settlement Class. This payment will be in addition to Plaintiff's Individual Settlement Award as a Settlement Class Member and shall be reported on an IRS Form 1099 by the Settlement Administrator. It is the intent of the Parties that the Enhancement Payment to the Plaintiff is for his services in connection with this Lawsuit and is not wages, therefore the Settlement Administrator shall not withhold any taxes from the Enhancement and shall report it on an IRS Form 1099, which shall be provided to Plaintiff and to the pertinent taxing authorities as required by law. Although it is the contemplation of the Parties that the Enhancement does not represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority may take the position that some or all of the Enhancement Payment constitutes wages for income tax and withholding purposes. Plaintiff agrees to assume the responsibility of remitting to the Internal Revenue Service, the California Franchise Tax Board, and any other relevant taxing authority the amounts required by law, if any, to be withheld by SCR from the Enhancement paid under this Settlement Agreement. In addition, Plaintiff shall hold SCR, Released Parties and Class Counsel harmless and indemnify SCR, Released Parties and Class Counsel for all taxes, interest, penalties, other payments and costs, incurred by SCR by reason of any claims relating to the non-withholding of taxes from the Enhancement.

7. **Settlement Administrator.** The Parties agree to the appointment of Phoenix Settlement Administrators as Settlement Administrator nor to Class Counsel seeking Court approval to pay up to Six Thousand Five Hundred Dollars and Zero Cents (\$6,500.00) from the Maximum Settlement Amount for its services. The Settlement Administrator shall be responsible for sending all required notices in both English and Spanish, calculating the Net Settlement Fund, calculating each Class Member's Individual Settlement Award amount, preparing all checks and mailings and disbursing all residuals resulting from uncashed settlement checks as set forth in Section 4(E). The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount by Class Counsel only after checks have been mailed to all Settlement Class Members.

8. **Preliminary Approval.** Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Daniel J. Brown and Ethan C. Surls of Stansbury Brown Law, PC as Class Counsel;
- C. Appointing Marcos Garnica as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Class Notice Packet (which is comprised of the Class Notice,), and directing the mailing of same in English and Spanish; and

- G. Scheduling a Final Approval hearing.
  - H. Plaintiff shall submit the proposed settlement to the Labor Workforce Development Agency (“LWDA”) pursuant to Labor Code § 2699(l)(2). Proof of this submission will be provided to Defendants’ respective Counsel.
  - I. If Final Approval is granted, Plaintiff shall submit a copy of the Superior Court’s judgement after entry of the judgement or order, pursuant to Labor Code § 2699(l)(3). Proof of this submission will be provided to SCR’s’ Counsel.
9. **Notice Procedures.** Following preliminary approval, the Settlement Class shall be notified as follows:
- A. Within fifteen (15) days after entry of an order preliminarily approving this Settlement Agreement, SCR will provide the Settlement Administrator with a class list including the names, last known addresses, and social security numbers (in electronic format) of Settlement Class Members, as well as the total workweeks worked by each member of the Settlement Class during the Class Period.
  - B. Within seven (7) days from receipt of the class list information, the Settlement Administrator shall: (i) run the names of all Settlement Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members; (ii) update the addresses of any Settlement Class Member for whom an updated address was found through the NCOA search; and (iii) mail the Notice Packet to each Settlement Class Member in English and Spanish at their last known address or at the updated address found through the NCOA search, and retain proof of mailing.
  - C. The Settlement Administrator shall use its best professional efforts, including utilizing a “skip trace,” to track any Settlement Class Member’s mailing returned as undeliverable, and will re-send the Notice Packet promptly upon identifying updated mailing addresses through such efforts. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member.
  - D. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline (defined below) shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class Member immediately, and in any event within three (3) business days of obtaining the updated address. Settlement Class Members to whom Notice Packets are re-sent after having been returned as undeliverable to the Settlement Administrator shall have twenty (20) days from the date of re-mailing, or until the Response

Deadline has expired, whichever is later, to mail a Request for Exclusion, challenge or objection.

- E. **Opt-Out/Request for Exclusion Procedures.** Any Settlement Class Member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
  - i. The Request for Exclusion must: (1) contain the name, address, telephone number of the Settlement Class Member; (2) contain a statement that the Settlement Class Member wishes to be excluded from the class settlement; (3) be signed by the Settlement Class Member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion fails to comply with items (1)-(3), it will not be deemed a valid Request for Exclusion from this settlement, except a Request for Exclusion not containing a Class Member’s telephone number will be deemed valid. The date of the postmark on the Request for Exclusion, shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement (although the PAGA settlement and release provisions will apply to each such individual, and such individual shall be entitled to that individual’s share of the PAGA Amount) or have any right to object, intervene, appeal or comment thereon. Any Settlement Class Member who does not submit a Request for Exclusion is automatically deemed a participating Settlement Class Member.
- F. **Objections.** Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and SCR’s counsel as well as filing them with the Court). Defendant’s counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant’s counsel and Class Counsel shall have ten (10) days to respond. To be valid, any objection must: (1) contain the objecting Settlement Class member’s full name and current address; (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; and (4) objections must be postmarked on or before the Response Deadline. The Court will hear from any Class Member who attends the final approval hearing and asks to speak regarding his or her objection, regardless of whether a written objection was submitted.
- G. **Challenges to Individual Settlement Award Calculations.** Each Notice Packet mailed to a Settlement Class Member shall disclose the amount of the Settlement Class Member’s estimated Settlement Award as well as all of the information that

was used from Defendant's records in order to calculate the Settlement Award, including the Settlement Class Member's number of Eligible Workweeks during the Class Period, the number of pay periods worked during the PAGA/Wage Statement periods, and whether the Settlement Class Member's employment ended during the period of March 5, 2017 through March 31, 2022. Settlement Class Members will have the opportunity, should they disagree with SCR's records regarding the number of Eligible Workweeks and/or pay periods stated in their Notice Packet and/or whether their employment ended between March 5, 2017 and March 31, 2022, to challenge the data provided. In order to challenge SCR's data, the Settlement Class Member must provide documentation and/or an explanation demonstrating that SCR's data is incorrect and evidencing the correct number of Eligible Workweeks and or pay periods that the Settlement Class Member believes they should have been credited with and/or evidence of the correct date their employment ended. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. The Settlement Administrator shall provide a copy of the challenge and any supporting documentation to counsel for the Parties within five (5) days of receipt.

- H. **Dispute Resolution.** The Settlement Administrator shall have the responsibility of resolving all disputes that arise during the settlement administration process, including, without limitation, disputes (if any) regarding the calculation of Settlement Class Member's Individual Settlement Awards, the allocation of W-2 wages, and the number of Eligible Workweeks and/or pay periods. Where the information submitted by SCR from its records differs from the information submitted by the Settlement Class Member, the Settlement Administrator shall request a conference call between the Settlement Administrator, Class Counsel, and defense counsel to discuss and resolve the dispute. In advance of the conference call, the Settlement Administrator shall email copies of all available information to all counsel. After consulting with the Parties to determine whether an adjustment is warranted, the Settlement Administrator will finally determine the eligibility for and amount of any Settlement Award. Such determination shall be binding upon the Settlement Class Member and the Parties.

10. **Final Approval Process.** Following preliminary approval and the close of Response Deadline under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's application for Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the LWDA's share of the PAGA payment; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

11. **Non-Admission.** SCR denies that it has engaged in any unlawful activity, that it has failed to comply with the law in any respect, that it has any liability to anyone under the claims asserted in the Lawsuit, and that but for this settlement a class should not be certified in this Lawsuit. Nothing in this Settlement Agreement is intended or shall be construed as an admission of liability or wrongdoing by SCR. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Amendments or Modifications.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

13. **Right of Recission.** No later than seven (7) court days after the Response Deadline, the Settlement Administrator shall identify the Class Members who have timely submitted written requests for exclusion in a declaration to the court in support of the motion for final approval. Should the Court order the parties to include the names of the Class Members who timely submitted a written request for exclusion in the order granting final approval, the parties will comply with the Court's Order.

If ten percent (10%) or more of the Class Members submit valid requests for exclusion, Defendant at its sole option may withdraw from this Settlement by giving written notice to Class Counsel and the Settlement Administrator within fifteen (15) business days of the Response Deadline. If this right is exercised, Defendant will be exclusively responsible for all settlement administration costs incurred to date by the Settlement Administrator.

14. **Circular 230 Disclaimer.** Each party to this agreement (for purposes of this section, the "acknowledging party" and each party to this agreement other than the acknowledging party, an "other party") acknowledges and agrees that (1) no provision of this agreement, and no written communication or disclosure between or among the parties or their attorneys and other advisers, is or was intended to be, nor will any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this agreement, (b) has not entered into this agreement based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any other party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this agreement.

15. **No Prior Assignments.** The Parties, Class Counsel, and Counsel for Defendants 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 right herein released and discharged.

16. **Nullification of Settlement Agreement.** In the event that: (a) the Court does not finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any material term of the Settlement Agreement; or (c) the Settlement does not become final as written and agreed to by the Parties for any other reason, then the Settlement Agreement will be null and void, all amounts deposited into the Qualified Settlement Fund Account will be returned to Defendant, and the Parties shall be returned to their original respective positions. In such an event, any order or judgment entered by the Court in furtherance of the Settlement Agreement will likewise be treated as void from the beginning.

17. **Calculating Deadlines.** If the date by which any action is required to be performed under the Settlement falls on a Saturday, Sunday or legal court holiday in the State of California, then the date by which such action shall be required to be performed shall be the next following day that is not a Saturday, Sunday or legal court holiday in the State of California.

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

19. **Binding on Successors and Assigns.** The Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

20. **California Law Governs.** All terms of the Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

21. **Investigation of the Claims.** Each Party conducted significant investigation of the facts and law both before and after the Action was filed. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding the Plaintiff's claims, the defenses thereto and the damages claimed by Plaintiff.

22. **Benefits of Settlement to Class Members.** Plaintiff has considered the expense and length of continued proceedings necessary to continue the Action against Defendants through trial and any possible appeals. Plaintiff has also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation, including those involved in class certification. Plaintiff is also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action and Defendant's' defenses thereto. Plaintiff

has also considered the settlement negotiations conducted by the Parties. Based on the foregoing, Plaintiff has determined that the Settlement set forth in the Settlement Agreement is fair, adequate, and reasonable, and is in the best interest of the Settlement Class.

23. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe the Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at the 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 the Settlement.

24. **Invalidity of Any Provision.** Before declaring any provision of the 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 the Settlement Agreement valid and enforceable.

25. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of the Settlement Agreement. The Parties agree to cooperate to promote participation in the Settlement, and in seeking court approval of the Settlement. The Parties and their counsel agree not to take any action to encourage any Settlement Class Members to opt out of or to object to the Settlement. Defendant agrees not to obtain waivers or Pick Up Stix agreements from the Settlement Class Members during the Settlement approval process and will work in good faith to reach an agreement approved by the Court. Defendant further agrees that it will not oppose Plaintiff's motion for preliminary approval or motion for final approval.

26. **Confidentiality.** Plaintiff, Class Counsel, Defendant and Counsel for Defendant agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount or terms of the Settlement Agreement. In addition, Plaintiff, Class Counsel, Defendant and Counsel for Defendant agree that they will not engage in any advertising or distribute any marketing materials relating to the Settlement of this case, including, but not limited to, any postings on any websites maintained by Class Counsel. Nothing in the Settlement Agreement shall limit Defendant's ability to fulfill disclosure obligations reasonably required by law or in furtherance of business purposes, including the fulfillment of obligations stated in the Settlement Agreement.

27. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into the Settlement, and further intend that the Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms.

28. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery or by e-mail at the addresses set forth below, or such other addresses as the Parties may designate in writing from time to time:

if to SCR:

Lisa K. Garner  
GORDON REES SCULLY MANSUKHANI, LLP  
633 West Fifth St., 52<sup>nd</sup> Floor  
Los Angeles, CA 90071  
lgarner@grsm.com

if to Plaintiff:

Daniel J. Brown  
STANSBURY BROWN LAW, PC  
2610 ½ Abbot Kinney Blvd.  
Venice, CA 90291  
dbrown@stansburybrownlaw.com

29. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

30. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

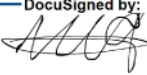
APPROVED AND ACCEPTANCES AND AGREEMENT BY THE PARTIES

DATED: So Cal Retail Services, Inc.

By: \_\_\_\_\_  
Jeff Coss, President

DATED: 10/6/2022

Marcos Garnica

DocuSigned by:  
  
7CA0B1D309074D1

\_\_\_\_\_  
Plaintiff and Settlement Class Representative

if to SCR:

Lisa K. Garner  
GORDON REES SCULLY MANSUKHANI, LLP  
633 West Fifth St., 52<sup>nd</sup> Floor  
Los Angeles, CA 90071  
lgarner@grsm.com

if to Plaintiff:

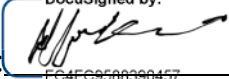
Daniel J. Brown  
STANSBURY BROWN LAW, PC  
2610 ½ Abbot Kinney Blvd.  
Venice, CA 90291  
dbrown@stansburybrownlaw.com

29. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

30. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

#### APPROVED AND ACCEPTANCES AND AGREEMENT BY THE PARTIES

DATED: October 19, 2022 | 12:41 PM PDT  
So Cal Retail Services, Inc.

DocuSigned by:  
  
By: \_\_\_\_\_  
FC4FC9588590457...  
Jeff Coss, President

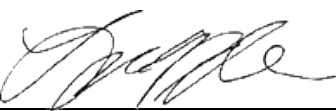
DATED: Marcos Garnica

\_\_\_\_\_  
Plaintiff and Settlement Class Representative

**APPROVED AS TO FORM (BY COUNSEL ONLY):**

DATED: October 19, 2022

GORDON REES SCULLY MANSUKHANI, LLP

By: 

Lisa K Garner

Attorneys for Defendant So Cal Retail Services, Inc.

DATED: October 6, 2022

STANSBURY BROWN LAW, PC

By: 

Daniel J. Brown

Attorneys for Plaintiff

# **EXHIBIT B**

## STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Marcos Garnica (“Plaintiff”), individually and on behalf of all members of the Settlement Class, defined below, and Defendant So Cal Retail Services, Inc. (“SCR” or “Defendant”). Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Daniel Brown and Ethan Surls of Stansbury Brown Law, PC (“Class Counsel”). SCR is represented by Lisa Garner and Thomas McMullen of Gordon Rees Scully Mansukhani, LLP.

Plaintiff filed a class action complaint (“Complaint”) against SCR on March 5, 2021, in Los Angeles County Superior Court, Case No. 21STCV08762 which alleges causes of action for: (1) minimum wage violations (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) failure to reimburse for necessary business expenses; (6) wage statement violations; (7) waiting time penalties; and (8) unfair competition.

Plaintiff filed a First Amended Class and Representative Action Complaint (“FAC”) on May 28, 2021, to add an additional cause of action for civil penalties under the Private Attorneys General Act (“PAGA”) pursuant to Labor Code Sections 2698 *et seq.* The Complaint and FAC are referred to hereinafter as the “Lawsuit”.

On March 23, 2022, the Parties attended and participated in good faith, arms’ length settlement discussions at a mediation before experienced wage & hour Mediator Tripper Ortman, Esq. Prior to mediation, the Parties conducted significant investigation of the facts and law. This included review and analysis of Defendant’s policies and putative class members’ time records and payroll records. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff’s claims, the defenses thereto, and the damages and penalties claimed by Plaintiff in the Lawsuit. As a result of the Parties thorough investigation of the allegations and defenses thereto, they were able to reach an agreement at the mediation after extensive negotiations.

Given the risks and uncertainties of litigation, the Parties have agreed to settle this Lawsuit on the terms set forth herein and subject to the approval of Court. Nothing herein shall be construed as an admission of any wrongdoing or of liability as the Settlement Agreement is intended solely to allow the Parties to buy their peace and resolve the disputed claims asserted in this Lawsuit.

**1. Certification for Settlement Purposes.** For the purposes of this Settlement Agreement only, the Parties stipulate to certification of the following Settlement Class:

1. **Settlement Class** – All individuals who worked for Defendant So Cal Retail Services, Inc. (“Defendant”) in California as non-exempt employees from March 5, 2017 through March 31, 2022 (“Settlement Class” or “Settlement Class Members”). The “Class Period” as referred to herein shall be from March 5, 2017 to March 31, 2022.

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure or Federal Rule of Civil Procedure Rule 23.

If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

## 2. Releases.

- A. **Class Releases by Settlement Class Members.** Plaintiff and every member of the Settlement Class (except those who opt out, as described below) will fully release and discharge Defendant, its past or present officers, directors, shareholders, and ~~employees~~managers, supervisors, owners, agents, principals, heirs, representatives, and its respective successors, predecessors in interest, insurers, and attorneys (collectively the “Released Parties”) from all Released Claims. ~~“Participating Class Members release the Released Claims” means Parties from all claims, rights, demands, liabilities, and causes of action, that were alleged, or reasonably could have been pleaded~~alleged, based upon, arising from, or related to, the factual allegations set forth in on the operative complaint~~Class Period facts stated in the Operative Complaint and ascertained in the course of the Action, including, but not limited to any and all claims for: (a) failure to pay all regular wages, minimum wages, and overtime wages due; (b) failure to provide meal periods or compensation in lieu thereof; (c) failure to provide rest periods or compensation in lieu thereof; (d) failure to reimburse necessary business expenses; (e) failure to provide complete, accurate wage statements; (f) failure to pay wages timely at time of termination or resignation; and (g) unfair business practices that could have been premised on all claims that were alleged, or reasonably could have been alleged, based on the claims, causes~~Class Period facts stated in the Operative Complaint and ascertained in the course of action or legal theories of relief described the Action. Except as set forth above or, Participating Class Members do not release any of the other claims, causes of action or legal theories of relief pleaded in the operative complaint; and h) all claims under the California Labor Code Private Attorneys General Act of 2004 or including claims for civil penalties that could have been premised on vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims, causes of action or legal theories described above or any of based on facts occurring outside the claims, causes of action or legal theories of relief pleaded in the operative complaint including but not limited to Labor Code sections 210, 226.3, 1197.1, 558, and 2699~~Class Period~~. This release shall apply to all Participating Class Members and all claims arising during the Class Period. Separate and apart from the Released Claims by Participating Class Members, Plaintiff Garnica as an individual will provide a complete and general release of all known or unknown claims he may hold through the Effective Date of this Agreement. For members of the Settlement Class who do not validly opt out, the release period shall run from March 5, 2017 through March 31, 2022 (“Class Period”).
- B. **PAGA Release by Aggrieved Employees.** Plaintiff and every non-exempt employee who worked for Defendant from March 5, 2020 through March 31, 2022

(“Aggrieved Employees”) will fully release and discharge the Released Parties from all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA, that could have been premised on the”), for claims that were ~~pled~~alleged, or reasonably could have been alleged, based on the ~~factual allegations~~PAGA Period facts stated in the ~~FAC~~Operative Complaint and ascertained in the course of the Lawsuit and the March 5, 2022 letter Plaintiff sent to the California Labor and Workforce Development Agency (“LWDA”) (“PAGA Notice”), including any and all claims for civil penalties for violations of Labor Code sections 201 - 204, 210, 226, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2699 (collectively, the “PAGA Released Claims”), regardless of whether the Aggrieved Employee opts out from the Settlement Agreement. -The release period shall run from March 5, 2020 through March 31, 2022 (“PAGA Period”). Except as set forth above, Aggrieved Employees do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

- C. **Parties’ Mutual Release of Unknown Claims.** Plaintiff and SCR have agreed to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against each other and the Released Parties. Plaintiff and SCR understand that this release includes unknown claims and that he or it is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

**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.**

However, to the extent that Plaintiff or SCR has claims that cannot be released as a matter of law (i.e., workers’ compensation claims), then those claims will not be released.

- D. If SCR fails to fully fund the Settlement as provided for by this Settlement, then the releases in this Settlement will be null and void. The releases will become effective upon full payment of the Maximum Settlement Amount.

3. **Settlement Payment.** In exchange for the releases set forth in this Settlement Agreement, SCR agrees to pay a common fund of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) (the “Maximum Settlement Amount” or “MSA”) in full and complete settlement of this matter, as follows:

- A. The Maximum Settlement Amount shall be deposited with the Settlement Administrator in two (2) installments as follows: (i) SCR shall make the first installment payment of \$50,000.00 within fifteen (15) days of the date of

Preliminary Approval and (ii) SCR shall pay the remainder of the MSA and its share of payroll taxes within thirty (30) days of the date of Final Approval (which, for this purpose, shall be defined as the date on which the Court enters an Order granting Final Approval, or solely in the event that there are any objections to the settlement, the filing of an objection being a prerequisite to the filing of an appeal, the later of: (i) the last date on which any appeal might be filed, or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review); The Settlement Administrator shall hold all portions of the Maximum Settlement Amount in an interest-bearing account for the benefit of the Settlement Class until the time for disbursement as called for in this Settlement Agreement.

B. This is a non-reversionary settlement. The Maximum Settlement Amount includes:

- (1) All payments to the Settlement Class;
- (2) All fees and expenses of the Settlement Administrator associated with the administration of the settlement, which are anticipated to be no greater than ~~FiveSix~~ Thousand ~~SevenFive~~ Hundred ~~Fifty~~ Dollars and Zero Cents (~~\$5,7506,500.00~~).
- (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Enhancement Payment, subject to Court approval, in recognition of Plaintiff's general release of claims, contributions to the Lawsuit, and service to the Settlement Class. In the event that the Court reduces or does not approve the requested Enhancement Payment, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding;
- (4) Up to one-third of the Maximum Settlement Amount in attorneys' fees, which is currently estimated to be Eighty Three Thousand Three Hundred Thirty Three Dollars (\$83,333.00), plus up to Twenty Thousand Dollars and Zero Cents (\$20,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. In the event that the Court reduces or does not approve Class Counsel's requested fees and costs, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding; and
- (5) Five Thousand Dollars and Zero Cents (\$5,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$3,750.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) will be payable to the Aggrieved Employees as the "PAGA Amount."

C. Defendant's share of payroll taxes shall be paid by Defendant separate and apart from the Maximum Settlement Amount.

D. **Escalator Clause.** SCR represents that as of March 23, 2022, there were approximately 118 putative class members that worked a combined 7,685 work weeks during the class period. If either the actual number of class members is ten percent (10%) more than 118 or the number of work weeks worked during the class period is ten percent (10%) more than 7,685 work weeks, SCR shall increase the MSA on a pro-rata basis equal to the increase in the number of class members and/or work weeks if the number of class members or number of work weeks is greater than 10% (e.g., if the number of work weeks or class members increases by 11%, SCR will increase the MSA by 1%; e.g., if the number of work weeks or class members increases by 25%, SCR will increase the MSA by 15%).

4. **Settlement Award Procedures.** Settlement Class Members are not required to submit a claim form to receive their Individual Settlement Award. Individual Settlement Awards will be determined and paid as follows:

A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for the Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, and Class Counsel's costs. The remaining amount shall be known as the "Net Settlement Fund."

B. From the Net Settlement Fund, the Settlement Administrator will calculate each Settlement Class Member's Individual Settlement Award.

Settlement Awards shall be based on the following formula:

i. Waiting Time Amount: Twenty percent (20%) of the Net Settlement Fund shall be designated as the "Waiting Time Amount." Each participating Settlement Class Member who separated their employment from SCR at any time from March 5, 2018 through March 31, 2022 ("Waiting Time Period"), shall receive an equal, pro-rata share of the Waiting Time Amount.

ii. Wage Statement Amount: Fifteen percent (15%) of the Net Settlement Fund shall be designated as the "Wage Statement Amount." Each participating Settlement Class Member who was employed by SCR at any time from March 5, 2020 through March 31, 2022 shall receive a portion of the Wage Statement Amount proportionate to the number of pay periods that he or she worked during the period from March 5, 2020 through March 31, 2022 ("Wage Statement Period").

iii. The remainder of the Net Settlement Fund shall be distributed to each participating Settlement Class Member based on their proportionate share of Eligible Workweeks (defined below) during the Class Period, by multiplying the remaining Net Settlement Fund by a fraction, the numerator

of which is the participating Settlement Class Member's Eligible Workweeks during the Class Period, and the denominator of which is the total Eligible Workweeks of all participating Settlement Class Members during the Class Period.

An "Eligible Workweek" shall be any workweek in which the Class Member worked at least one day during the workweek based on SCR's records.

- C. PAGA Amount: Each Aggrieved Employee who was employed by SCR at any time from March 5, 2020 through March 31, 2022, shall receive a portion of the One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) of the Net Settlement Fund that has been designated as the "PAGA Amount" proportionate to the number of pay periods that he or she worked during the period from March 5, 2020 through March 31, 2022 ("PAGA Period").
- D. Within ten (10) days following the full funding of the Maximum Settlement Amount with the Settlement Administrator by SCR, the Settlement Administrator will calculate Individual Settlement Award amounts and mail Individual Settlement Awards to participating Settlement Class Members and transfer to Class Counsel its attorney's fees and verified costs.
- E. For purposes of calculating applicable taxes and withholdings for the Settlement Class Members, twenty percent (20%) of each Individual Settlement Award shall be designated as wages subject to W-2 reporting and normal payroll withholdings; the remaining eighty percent (80%) of each Individual Settlement Award shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings. Notwithstanding the treatment of the payments to each Settlement Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans. Additionally, 100% of the PAGA Amount paid to Aggrieved Employees shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings.
- F. Each Settlement Class Member who receives an Individual Settlement Award must negotiate the settlement check within one hundred eighty (180) days from the date of issuance. The one hundred eighty (180) day expiration of the settlement checks will be pre-printed on the front of the settlement check. Any funds payable to Settlement Class Members whose checks are not negotiated within one hundred eighty (180) days period will not be reissued and will be transferred by the settlement administrator to Inner City Law Center, a nonprofit poverty-law firm serving the poorest and most vulnerable residents of Los Angeles as a *cy pres*.
- G. Neither Plaintiff nor SCR shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by

his or its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Class Counsel's Attorneys' Fees and Litigation Costs.** The Parties agree upon a total award of attorneys' fees to Class Counsel of one-third of the Maximum Settlement Amount, which is currently estimated to be Eighty-Three Thousand Three Hundred Thirty—Three Dollars (\$83,333.00), plus up to Twenty Thousand Dollars and Zero Cents (\$20,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised, responses to any intervenors and any appeals necessitated by those objections or intervenors. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when it pays the fee award as approved by the Court.

6. **Plaintiff's Enhancement Payment.** The Parties agree to a Class Representative Enhancement Payment for Plaintiff of Five Thousand Dollars and Zero Cents (\$5,000.00) in exchange for the general release of his claims, his time and risks in prosecuting this case, and his service to the Settlement Class. This payment will be in addition to Plaintiff's Individual Settlement Award as a Settlement Class Member and shall be reported on an IRS Form 1099 by the Settlement Administrator. It is the intent of the Parties that the Enhancement Payment to the Plaintiff is for his services in connection with this Lawsuit and is not wages, therefore the Settlement Administrator shall not withhold any taxes from the Enhancement and shall report it on an IRS Form 1099, which shall be provided to Plaintiff and to the pertinent taxing authorities as required by law. Although it is the contemplation of the Parties that the Enhancement does not represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority may take the position that some or all of the Enhancement Payment constitutes wages for income tax and withholding purposes. Plaintiff agrees to assume the responsibility of remitting to the Internal Revenue Service, the California Franchise Tax Board, and any other relevant taxing authority the amounts required by law, if any, to be withheld by SCR from the Enhancement paid under this Settlement Agreement. In addition, Plaintiff shall hold SCR, Released Parties and Class Counsel harmless and indemnify SCR, Released Parties and Class Counsel for all taxes, interest, penalties, other payments and costs, incurred by SCR by reason of any claims relating to the non-withholding of taxes from the Enhancement.

7. **Settlement Administrator.** The Parties agree to the appointment of Phoenix Settlement Administrators as Settlement Administrator nor to Class Counsel seeking Court approval to pay up to ~~FiveSix~~ Thousand ~~SevenFive~~ Hundred ~~Fifty~~ Dollars and Zero Cents (~~\$5,7506,500.00~~) from the Maximum Settlement Amount for its services. The Settlement Administrator shall be responsible for sending all required notices in both English and Spanish, calculating the Net Settlement Fund, calculating each Class Member's Individual Settlement Award amount, preparing all checks and mailings and disbursing all residuals resulting from uncashed settlement checks as set forth in Section 4(E). The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount by Class Counsel only after checks have been mailed to all Settlement Class Members.

8. **Preliminary Approval.** Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Daniel J. Brown and Ethan C. Surls of Stansbury Brown Law, PC as Class Counsel;
- C. Appointing Marcos Garnica as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Class Notice Packet (which is comprised of the Class Notice,), and directing the mailing of same in English and Spanish; and
- G. Scheduling a Final Approval hearing.
- H. Plaintiff shall submit the proposed settlement to the Labor Workforce Development Agency (“LWDA”) pursuant to Labor Code § 2699(l)(2). Proof of this submission will be provided to Defendants’ respective Counsel.
- I. If Final Approval is granted, Plaintiff shall submit a copy of the Superior Court’s judgement after entry of the judgement or order, pursuant to Labor Code § 2699(l)(3). Proof of this submission will be provided to SCR’s’ Counsel.

9. **Notice Procedures.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within fifteen (15) days after entry of an order preliminarily approving this Settlement Agreement, SCR will provide the Settlement Administrator with a class list including the names, last known addresses, and social security numbers (in electronic format) of Settlement Class Members, as well as the total workweeks worked by each member of the Settlement Class during the Class Period.
- B. Within seven (7) days from receipt of the class list information, the Settlement Administrator shall: (i) run the names of all Settlement Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members; (ii) update the addresses of any Settlement Class Member for whom an updated address was found through the NCOA search; and (iii) mail the Notice Packet to each Settlement Class Member in English and Spanish at their last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. The Settlement Administrator shall use its best professional efforts, including utilizing a “skip trace,” to track any Settlement Class Member’s mailing returned as undeliverable, and will re-send the Notice Packet promptly upon identifying updated mailing addresses through such efforts. The address identified by the

Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member.

- D. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline (defined below) shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class Member immediately, and in any event within three (3) business days of obtaining the updated address. Settlement Class Members to whom Notice Packets are re-sent after having been returned as undeliverable to the Settlement Administrator shall have twenty (20) days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to mail a Request for Exclusion, challenge or objection.
- E. **Opt-Out/Request for Exclusion Procedures.** Any Settlement Class Member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
- i. The Request for Exclusion- must: (1) contain the name, address, telephone number of the Settlement Class Member; (2) contain a statement that the Settlement Class Member wishes to be excluded from the class settlement; (3) be signed by the Settlement Class Member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion- fails to comply with items (1)-(3), it will not be deemed a valid Request for Exclusion from this settlement, except a Request for Exclusion -not containing a Class Member’s telephone number will be deemed valid. The date of the postmark on the Request for Exclusion-, shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement (although the PAGA settlement and release provisions will apply to each such individual, and such individual shall be entitled to that individual’s share of the PAGA Amount) or have any right to object, intervene, appeal or comment thereon. Any Settlement Class Member who does not submit a Request for Exclusion is automatically deemed a participating Settlement Class Member.
- F. **Objections.** Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and SCR’s counsel as well as filing them with the Court). Defendant’s counsel and Class Counsel shall file any responses to

objections no later than the deadline to file the Motion for Final Approval, unless filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to respond. To be valid, any objection must: (1) contain the objecting Settlement Class member's full name and current address; (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; and (4) objections must be postmarked on or before the Response Deadline. The Court will hear from any Class Member who attends the final approval hearing and asks to speak regarding his or her objection, regardless of whether a written objection was submitted.

- G. **Challenges to Individual Settlement Award Calculations.** Each Notice Packet mailed to a Settlement Class Member shall disclose the amount of the Settlement Class Member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award, including the Settlement Class Member's number of Eligible Workweeks during the Class Period, the number of pay periods worked during the PAGA/Wage Statement periods, and whether the Settlement Class Member's employment ended during the period of March 5, 2017 through March 31, 2022. Settlement Class Members will have the opportunity, should they disagree with SCR's records regarding the number of Eligible Workweeks and/or pay periods stated in their Notice Packet and/or whether their employment ended between March 5, 2017 and March 31, 2022, to challenge the data provided. In order to challenge SCR's data, the Settlement Class Member must provide documentation and/or an explanation demonstrating that SCR's data is incorrect and evidencing the correct number of Eligible Workweeks and or pay periods that the Settlement Class Member believes they should have been credited with and/or evidence of the correct date their employment ended. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. The Settlement Administrator shall provide a copy of the challenge and any supporting documentation to counsel for the Parties within five (5) days of receipt.
- H. **Dispute Resolution.** The Settlement Administrator shall have the responsibility of resolving all disputes that arise during the settlement administration process, including, without limitation, disputes (if any) regarding the calculation of Settlement Class Member's Individual Settlement Awards, the allocation of W-2 wages, and the number of Eligible Workweeks and/or pay periods. Where the information submitted by SCR from its records differs from the information submitted by the Settlement Class Member, the Settlement Administrator shall request a conference call between the Settlement Administrator, Class Counsel, and defense counsel to discuss and resolve the dispute. In advance of the conference call, the Settlement Administrator shall email copies of all available information to all counsel. After consulting with the Parties to determine whether an adjustment is warranted, the Settlement Administrator will finally determine the eligibility for and amount of any Settlement Award. Such determination shall be binding upon the Settlement Class Member and the Parties.

10. **Final Approval Process.** Following preliminary approval and the close of Response Deadline under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's application for Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the LWDA's share of the PAGA payment; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

11. **Non-Admission.** SCR denies that it has engaged in any unlawful activity, that it has failed to comply with the law in any respect, that it has any liability to anyone under the claims asserted in the Lawsuit, and that but for this settlement a class should not be certified in this Lawsuit. Nothing in this Settlement Agreement is intended or shall be construed as an admission of liability or wrongdoing by SCR. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Amendments or Modifications.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

13. **Right of Recission.** No later than seven (7) court days after the Response Deadline, the Settlement Administrator shall identify the Class Members who have timely submitted written requests for exclusion in a declaration to the court in support of the motion for final approval. Should the Court order the parties to include the names of the Class Members who timely submitted a written request for exclusion in the order granting final approval, the parties will comply with the Court's Order.

If ten percent (10%) or more of the Class Members submit valid requests for exclusion, Defendant at its sole option may withdraw from this Settlement by giving written notice to Class Counsel and the Settlement Administrator within fifteen (15) business days of the Response Deadline. If this right is exercised, Defendant will be exclusively responsible for all settlement administration costs incurred to date by the Settlement Administrator.

14. **Circular 230 Disclaimer.** Each party to this agreement (for purposes of this section, the "acknowledging party" and each party to this agreement other than the acknowledging party, an "other party") acknowledges and agrees that (1) no provision of this agreement, and no written communication or disclosure between or among the parties or their attorneys and other advisers, is or was intended to be, nor will any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular

230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this agreement, (b) has not entered into this agreement based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any other party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this agreement.

15. **No Prior Assignments.** The Parties, Class Counsel, and Counsel for Defendants 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 right herein released and discharged.

16. **Nullification of Settlement Agreement.** In the event that: (a) the Court does not finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any material term of the Settlement Agreement; or (c) the Settlement does not become final as written and agreed to by the Parties for any other reason, then the Settlement Agreement will be null and void, all amounts deposited into the Qualified Settlement Fund Account will be returned to Defendant, and the Parties shall be returned to their original respective positions. In such an event, any order or judgment entered by the Court in furtherance of the Settlement Agreement will likewise be treated as void from the beginning.

17. **Calculating Deadlines.** If the date by which any action is required to be performed under the Settlement falls on a Saturday, Sunday or legal court holiday in the State of California, then the date by which such action shall be required to be performed shall be the next following day that is not a Saturday, Sunday or legal court holiday in the State of California.

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

19. **Binding on Successors and Assigns.** The Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

20. **California Law Governs.** All terms of the Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

21. **Investigation of the Claims.** Each Party conducted significant investigation of the facts and law both before and after the Action was filed. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding the Plaintiff's claims, the defenses thereto and the damages claimed by Plaintiff.

22. **Benefits of Settlement to Class Members.** Plaintiff has considered the expense and length of continued proceedings necessary to continue the Action against Defendants through trial and any possible appeals. Plaintiff has also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation, including those involved in class certification. Plaintiff is also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action and Defendant's defenses thereto. Plaintiff has also considered the settlement negotiations conducted by the Parties. Based on the foregoing, Plaintiff has determined that the Settlement set forth in the Settlement Agreement is fair, adequate, and reasonable, and is in the best interest of the Settlement Class.

23. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe the Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at the 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 the Settlement.

24. **Invalidity of Any Provision.** Before declaring any provision of the 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 the Settlement Agreement valid and enforceable.

25. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of the Settlement Agreement. The Parties agree to cooperate to promote participation in the Settlement, and in seeking court approval of the Settlement. The Parties and their counsel agree not to take any action to encourage any Settlement Class Members to opt out of or to object to the Settlement. Defendant agrees not to obtain waivers or Pick Up Stix agreements from the Settlement Class Members during the Settlement approval process and will work in good faith to reach an agreement approved by the Court. Defendant further agrees that it will not oppose Plaintiff's motion for preliminary approval or motion for final approval.

26. **Confidentiality.** Plaintiff, Class Counsel, Defendant and Counsel for Defendant agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount or terms of the Settlement Agreement. In addition, Plaintiff, Class Counsel, Defendant and Counsel for Defendant agree that they will not engage in any advertising or distribute any marketing materials relating to the Settlement of this case, including, but not limited to, any postings on any websites maintained by Class Counsel. Nothing in the Settlement Agreement shall limit Defendant's ability to fulfill disclosure obligations reasonably required by law or in furtherance of business purposes, including the fulfillment of obligations stated in the Settlement Agreement.

27. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into the Settlement, and further intend that the Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms.

28. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery or by e-mail at the addresses set forth below, or such other addresses as the Parties may designate in writing from time to time:

if to SCR:

Lisa K. Garner  
GORDON REES SCULLY MANSUKHANI, LLP  
633 West Fifth St., 52<sup>nd</sup> Floor  
Los Angeles, CA 90071  
lgarner@grsm.com

if to Plaintiff:

Daniel J. Brown  
STANSBURY BROWN LAW, PC  
2610 ½ Abbot Kinney Blvd.  
Venice, CA 90291  
dbrown@stansburybrownlaw.com

29. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

30. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

APPROVED AND ACCEPTANCES AND AGREEMENT BY THE PARTIES

DATED: So Cal Retail Services, Inc.

By: \_\_\_\_\_  
Jeff Coss, President

DATED: Marcos Garnica

\_\_\_\_\_  
Plaintiff and Settlement Class Representative

**APPROVED AS TO FORM (BY COUNSEL ONLY):**

DATED: GORDON REES SCULLY MANSUKHANI, LLP

By: \_\_\_\_\_  
Lisa K Garner  
Attorneys for Defendant So Cal Retail Services, Inc.

DATED: STANSBURY BROWN LAW, PC

By: \_\_\_\_\_  
Daniel J. Brown  
Attorneys for Plaintiff

# **EXHIBIT C**

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT**

***Marcos Garnica v. Social Retail Services, Inc., et al.***

**Los Angeles County Superior Court, Case No.: 21STCV08762**

To: All individuals who worked for Defendant So Cal Retail Services, Inc. (“Defendant”) in California as hourly non-exempt employees similarly situated to Plaintiff from March 5, 2017 through March 31, 2022 (“Class Members”).

**PLEASE READ CAREFULLY**

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

***What Are My Options?***

**DO NOTHING**

If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks in which you worked at least one day based on Defendant’s records (“Eligible Workweek”) during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you separated from your employment with So Cal Retail Services, Inc. during the Waiting Time Period, as stated in this Notice. You also will be bound by the Settlement, including the release of claims stated above.

**DISPUTE INFORMATION IN YOUR NOTICE OF SETTLEMENT AWARD.**

Your Individual Settlement Award is based on the proportionate number of Eligible Workweeks you worked during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you have separated from your employment with So Cal Retail Services, Inc. during the Waiting Time Period. The information contained in Defendants’ records regarding each of these factors, along with your estimated Individual Settlement Award, is listed below. If you disagree with the information listed below, you may submit a dispute, along with any supporting documentation, to <<ADMINISTRATOR CONTACT INFO>>. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>.

**EXCLUDE YOURSELF FROM THE CLASS PORTION OF THE SETTLEMENT**

If you **do not** wish to take part in the Settlement, you may exclude yourself from the class portion of the settlement by completing the attached Request for Exclusion Form and sending it to the Settlement Administrator postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, and your signature. Send the request for exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely request for exclusion, shall, upon receipt by the Settlement Administrator, not be a Settlement Class Member and shall be barred from participating in any portion of the Net Settlement Fund. However, the person may not opt out of the PAGA portion of the settlement and release as described below. Class Members will receive their portion of the PAGA Amount regardless of their decision to opt out of the class settlement.

**OBJECT TO THE SETTLEMENT**

You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may timely submit a written objection directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Your written objection must include your name, address, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, together with any evidence in support of your objection. Written objections must be postmarked on or before <<RESPONSE DEADLINE>>. You may also object by appearing at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 17 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. You have the right to appear either in person or through your own attorney at this hearing, although you do not need to appear at the Final Approval Hearing for your objection to be considered. All objections or other correspondence must state the name and number of the case, which is *Marcos Garnica v. Social Retail Services, Inc., et al.*, Los Angeles County Superior Court, Case No. 21STCV08762. As stated, if you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object.

***Why should you read this Notice?***

The Court has granted preliminary approval of a proposed settlement (the “Settlement”) in the matter of *Marcos Garnica v. Social Retail Services, Inc., et al.*, Los Angeles County Superior Court, Case No. 21STCV08762 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. So Cal Retail Services, Inc.'s ("Defendant") records show that you were employed by So Cal Retail Services, Inc. as a non-exempt hourly employee in California between March 5, 2017 and March 31, 2022 (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

### ***What is this Lawsuit about?***

Plaintiff Marcos Garnica ("Plaintiff") brought this Lawsuit against Defendants seeking to assert claims on behalf of a class of all current and former hourly non-exempt employees similarly situated to Plaintiff who worked for So Cal Retail Services, Inc. in California from March 5, 2017 through March 31, 2022. Plaintiff is known as the "Class Representative," and his attorneys, who also represent the interests of all Class Members, are known as "Class Counsel."

The Lawsuit alleges that Defendant: (i) failed to pay employees all earned minimum and overtime wages; (ii) failed to provide all legally required meal periods and rest periods or compensation in lieu thereof; (iii) failed to provide accurate and itemized wage statements; (iv) failed to timely pay all wages due or final wages due upon separation of employment; (v) failed to reimburse for all necessary business expenses; and (vi) engaged in unlawful business practices as a result of the above-mentioned alleged violations. The Lawsuit further alleges that Defendant is also liable for civil penalties under the California Labor Code Private Attorneys General Act ("PAGA").

**Defendant denies that it has done anything wrong. Defendant also denies that it owes Class Members any wages, restitution, statutory or civil penalties, damages, or any other remedies. Accordingly, the Settlement is a compromise of disputed claims and should not be considered as an admission of liability on the part of Defendant, by whom all liability is expressly denied.**

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of the Court not allowing the case to proceed as a class action, the risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

The Court has not ruled on the merits of the claims alleged in the Lawsuit. In granting preliminary approval of the Settlement, the Court has determined only that there is sufficient evidence to suggest that the Settlement might be fair, adequate, and reasonable. A final determination on whether the Settlement is fair, adequate, and reasonable will be made at the Final Approval hearing.

**Your decision about whether to participate in the Settlement will not affect your employment.** California law and Defendant's policies strictly prohibit unlawful retaliation. Defendant will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member because of his or her decision to either participate or not participate in the Settlement.

### ***Who are the Attorneys?***

|                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Attorneys for Plaintiff/Settlement Class:<br><br><b>STANSBURY BROWN LAW, PC</b><br>Daniel J. Brown<br>Ethan C. Surls<br>dbrown@stansburybrownlaw.com<br>2610 ½ Abbot Kinney Blvd.<br>Venice, California 90291<br>Tel: (323) 204-3124<br>www.stansburybrownlaw.com | Attorneys for Defendant:<br><br><b>GORDON REES SCULLY MANSUKHANI, LLP</b><br>Lisa K. Garner<br>lgarner@grsm.com<br>633 West Fifth St., 52 <sup>nd</sup> Floor<br>Tel: (213) 576-5000<br>www.grsm.com |
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### ***What are the terms of the Settlement?***

Defendants have agreed to pay \$250,000.00 (the “Maximum Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Class Members, Class Counsel’s attorneys’ fees and expenses, Settlement administration costs, and the Class Representative’s Incentive Payment.

The following deductions from the Maximum Settlement Amount will be requested by the Parties:

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Maximum Settlement Amount. Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for up to one-third of the Maximum Settlement Amount, which is currently estimated at \$83,333.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000.00 in verified costs incurred in connection with the Lawsuit.

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$6,500.00 from the Maximum Settlement Amount to pay the settlement administration costs. Additionally, the Settlement Administrator will calculate Defendant’s share of the payroll taxes that will be paid from the Maximum Settlement Amount.

Class Representative Incentive Payment. Class Counsel will ask the Court to award the Class Representative an Incentive Payment in the amount of \$5,000.00 to compensate him for his service and extra work provided on behalf of the Class Members.

Payment to State of California. The Parties have agreed to allocate \$5,000.00 towards the Settlement of the PAGA claims in the Lawsuit. \$3,750.00 will be paid to the State of California Labor and Workforce Development Agency (“LWDA”), representing its 75% share of the PAGA civil penalties. The remaining \$1,250.00 will be allocated to individuals who were employed by Defendant’s as non-exempt employees during the time period of March 5, 2020 to March 31, 2022.

Calculation of Class Members’ Settlement Awards. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the “Net Settlement Fund,” which will be distributed to all Class Members who do not submit a valid and timely Request for Exclusion Form (“Settlement Class Members”) (described below). The Net Settlement Fund is estimated at approximately \$135,000.00, and will be divided as follows:

- (i) 20% of the Net Settlement Fund shall be designated as the “Waiting Time Amount” and will be allocated in equal amounts to all Settlement Class Members whose employment with So Cal Retail Services, Inc. ended at any time between March 5, 2018 and March 31, 2022 (“Waiting Time Period”).
- (ii) 15% of the Net Settlement Fund shall be designated as the “Wage Statement Amount” and will be allocated to Settlement Class Members based on the proportionate number of pay periods that they each worked between March 5, 2020 and March 31, 2022 (“Wage Statement Period”).
- (iii) The remainder of the Net Settlement Fund will be distributed to each Settlement Class Member based on the proportionate number of Eligible Workweeks (defined as any workweek in which the Settlement Class Member worked at least one day during the workweek based on Defendant’s records) that he or she worked during the Class Period (March 5, 2017 to March 31, 2022).

Calculation of Individuals PAGA Awards. \$1,250.00 of the Maximum Settlement Amount has been designated as the “PAGA Amount.” Each individual who was employed by Defendant at any time from March 5, 2020 to March 31, 2022 as a non-exempt employee, shall receive a portion of the PAGA Amount based on the number of proportionate pay periods that he or she worked during the time period of March 5, 2020 to March 31, 2022 (“PAGA Period”). Class Members shall not have the right to opt out of the PAGA portion of the settlement, and will receive their portion of the PAGA Amount regardless of their decision to opt out of the class settlement.

Payment of the Settlement. If the Court grants final approval of the Settlement, Individual Settlement Awards will be mailed to all Class Members for their portion of the PAGA Amount regardless of whether they submit a Request for Exclusion Form. In addition, Settlement Class Members will receive additional compensation as part of their Individual Settlement Awards comprised of their portion of the Net Settlement Fund as described above.

Allocation and Taxes. For tax purposes, each Individual Settlement Award shall be treated as follows: 20% as “wages” subject to normal payroll withholdings, for which an IRS Form W-2 will be issued; and 80% as penalties and interest with no withholdings, for which an IRS Form 1099 will be issued. For Class Members who opt out of the class portion of the settlement and receive only their portion of the PAGA Amount, 100% of the PAGA Amount shall be treated as penalties with no withholdings, for which an IRS Form 1099 will be issued. Class Members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of awards they receive under the Settlement.

Class Release. Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Defendant, its past or present officers, directors, shareholders, and managers, supervisors, owners, agents, principals, heirs, representatives, and its respective successors, predecessors in interest, insurers, and attorneys (collectively the “Released Parties”) from all Released Claims. “Released Claims” means all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action, including, any and all claims for: (a) failure to pay all regular wages, minimum wages, and overtime wages due; (b) failure to provide meal periods or compensation in lieu thereof; (c) failure to provide rest periods or compensation in lieu thereof; (d) failure to reimburse necessary business expenses; (e) failure to provide complete, accurate wage statements; (f) failure to pay wages timely at time of termination or resignation; and (g) unfair business practices that could have been premised on all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth above, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period. This release shall apply to all Participating Class Members and all claims arising during the Class Period.

PAGA Release. Plaintiff and every non-exempt employee who worked for Defendant from March 5, 2020 through March 31, 2022 (“Aggrieved Employees”) will fully release and discharge the Released Parties from all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), for claims that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative

Complaint and ascertained in the course of the Lawsuit and the March 5, 2022 letter Plaintiff sent to the California Labor and Workforce Development Agency (“LWDA”) (“PAGA Notice”), including any and all claims for civil penalties for violations of Labor Code sections 201 - 204, 210, 226, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2699 (collectively, the “PAGA Released Claims”), regardless of whether the Aggrieved Employee opts out from the Settlement Agreement. The release period shall run from March 5, 2020 through March 31, 2022 (“PAGA Period”). Except as set forth above, Aggrieved Employees do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

#### ***How can I claim money from the Settlement?***

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks in which you worked at least one day based on Defendant’s records (“Eligible Workweek”) during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you separated from your employment with So Cal Retail Services, Inc. during the Waiting Time Period, as stated in this Notice. You also will be bound by the Settlement, including the release of claims stated above. **IT IS IMPORTANT THAT IF AT ANY POINT AFTER RECEIVING THIS NOTICE YOU CHANGE YOUR ADDRESS THAT YOU PROMPTLY ADVISE THE SETTLEMENT ADMINISTRATOR OF YOUR NEW ADDRESS SO AS TO ENSURE THAT YOUR PORTION OF THE SETTLEMENT IS RECEIVED.**

#### ***What other options do I have?***

Dispute Information in Notice of Settlement Award. Your Individual Settlement Award is based on the proportionate number of Eligible Workweeks you worked during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you have separated from your employment with So Cal Retail Services, Inc. during the Waiting Time Period. The information contained in Defendants’ records regarding each of these factors, along with your estimated Individual Settlement Award, is listed below. If you disagree with the information listed below, you may submit a dispute, along with any supporting documentation, to <<ADMINISTRATOR CONTACT INFO>>. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Settlement Administrator will determine whether any adjustments are warranted, and if so, will consult with the Parties and make a determination as to whether an adjustment will be made.

According to Defendant’s records:

- (a) you worked for So Cal Retail Services, Inc. in California from [REDACTED] to [REDACTED];
- (b) you worked [REDACTED] Eligible Workweeks between March 5, 2017 and March 31, 2022, for So Cal Retail Services, Inc.;
- (c) you worked [REDACTED] pay periods between March 5, 2020 and March 31, 2022 for So Cal Retail Services, Inc.; and
- (d) your employment with So Cal Retail Services, Inc. <<DID/DID NOT>> end between March 5, 2018 and March 31, 2022.

The PAGA portion of your Individual Settlement Award (which you may not opt-out of) is estimated at \$[REDACTED]. Based on the above, your Individual Settlement Award is estimated at \$[REDACTED]. The lowest Individual Settlement

Award to a Settlement Class Member is estimated at \$ [REDACTED]. The highest Individual Settlement Award to a Settlement Class Member is estimated at \$ [REDACTED].

Exclude Yourself from the Class Portion of the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself from the class portion of the settlement by completing the attached Request for Exclusion Form and sending it to the Settlement Administrator postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, and your signature.

Send the request for exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely request for exclusion, shall, upon receipt by the Settlement Administrator, not be a Settlement Class Member and shall be barred from participating in any portion of the Net Settlement Fund. However, the person may not opt out of the PAGA portion of the settlement and release as described above. Class Members will receive their portion of the PAGA Amount regardless of their decision to opt out of the class settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may timely submit a written objection directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Your written objection must include your name, address, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, together with any evidence in support of your objection. Written objections must be postmarked on or before <<RESPONSE DEADLINE>>.

You may also object by appearing at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 17 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. You have the right to appear either in person or through your own attorney at this hearing, although you do not need to appear at the Final Approval Hearing for your objection to be considered. The Court will hear from any Class Member who attends the Final Approval Hearing and asks to speak regarding his or her objection, regardless of whether a written objection was submitted. All objections or other correspondence must state the name and number of the case, which is *Marcos Garnica v. Social Retail Services, Inc., et al.*, Los Angeles County Superior Court, Case No. 21STCV08762.

Should you elect to appear at the Final Approval Hearing in person, please be sure to adhere to the Court's social distancing procedures for attendance at hearings and review of court files. Pertinently, should you decide to physically attend the Hearing, please be advised that **face masks and/or facial coverings are required at all times to enter any courthouse or courtroom and must be worn covering the nose and mouth**. Do not enter the courthouse if you i) have tested positive for COVID-19 within the last 10 days AND have not been fever free for 24 hours; ii) You have been ordered to quarantine or have been in contact (within 6 feet and more than 15 minutes) with a person known to be or suspected of being COVID-19 positive within the last 14 days; or iii) You are experiencing COVID-19 symptoms.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object.

#### ***What is the next step?***

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 17 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Class Representative Incentive Payment to Plaintiff. **You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing.**

***How can I get additional information?***

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012, during regular court hours. You may also view the case file online at <https://www.lacourt.org/casesummary/ui/> and entering the case number information. This case is assigned to Department 17 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. The Settlement Agreement is attached as Exhibit A to the Declaration of Daniel J. Brown in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, filed on <<<DATE PRELIMINARY APPROVAL MOTION FILED>>>. You may also view the Settlement Agreement, complaint, the final order and judgment, any change to the hearing date and time, and other relevant documents and information by going to the website: [Phoenixclassaction.com/GarnicaSoCalRetail](https://Phoenixclassaction.com/GarnicaSoCalRetail). You may also contact the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>> for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS**

***REMINDER AS TO TIME LIMITS***

The deadline for submitting a Request for Exclusion or Objection or any dispute is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

**BY ORDER OF THE COURT ENTERED ON <<PRELIMINARY APPROVAL DATE>>.**

# **EXHIBIT 1**

## **REQUEST FOR EXCLUSION FORM**

***Marcos Garnica v. Socal Retail Services, Inc., et al.***  
**Los Angeles County Superior Court**  
**Case No.: 21STCV08762**

**IF YOU DO NOT WISH TO BE PART OF THE CLASS ACTION SETTLEMENT, YOU MAY COMPLETE, SIGN AND MAIL THIS FORM, POSTMARKED ON OR BEFORE [INSERT DATE], ADDRESSED AS FOLLOWS:**

**PHOENIX SETTLEMENT ADMINISTRATORS.**  
***Marcos Garnica v. Socal Retail Services, et al.***  
**CLASS ACTION ADMINISTRATOR**

**ADDRESS**  
**ADDRESS**  
**PHONE**  
**FAX**

**DO NOT SUBMIT THIS FORM IF YOU WISH TO RECEIVE A PAYMENT UNDER THE SETTLEMENT.**

By signing, filling out, and returning this form, I confirm that I **do not** want to be included in the Settlement of the lawsuit entitled *Marcos Garnica v. Socal Retail Services, et al.*, Los Angeles County Superior Court, Case No. 21STCV08762.

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *MARCOS GARNICA v. SOCAL RETAIL SERVICES, INC., ET AL.* LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT, EXCEPT FOR MY PORTION OF THE PAGA AMOUNT.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Last Four Digits of Social Security Number: \_\_\_\_ \_\_\_\_ \_\_\_\_ \_\_\_\_

# **EXHIBIT D**

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT**

***Marcos Garnica v. Social Retail Services, Inc., et al.***

**Los Angeles County Superior Court, Case No.: 21STCV08762**

**Case No.: 21STCV08762**

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To: All individuals who worked for Defendant So Cal Retail Services, Inc. ("Defendant") in California as hourly non-exempt employees similarly situated to Plaintiff from March 5, 2017 through March 31, 2022 ("Class Members").

**PLEASE READ CAREFULLY  
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

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[What Are My Options?](#)

**DO NOTHING**

If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks in which you worked at least one day based on Defendant's records ("Eligible Workweek") during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you separated from your employment with So Cal Retail Services, Inc. during the Waiting Time Period, as stated in this Notice. You also will be bound by the Settlement, including the release of claims stated above.

**DISPUTE INFORMATION IN YOUR NOTICE OF SETTLEMENT AWARD.**

Your Individual Settlement Award is based on the proportionate number of Eligible Workweeks you worked during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you have separated from your employment with So Cal Retail Services, Inc. during the Waiting Time Period. The information contained in Defendants' records regarding each of these factors, along with your estimated Individual Settlement Award, is listed below. If you disagree with the information listed below, you may submit a dispute, along with any supporting documentation, to <<ADMINISTRATOR CONTACT INFO>>. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>.

**EXCLUDE YOURSELF FROM THE CLASS PORTION OF THE SETTLEMENT**

If you **do not** wish to take part in the Settlement, you may exclude yourself from the class portion of the settlement by completing the attached Request for Exclusion Form and sending it to the Settlement Administrator postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, and your signature. Send the request for exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely request for exclusion, shall, upon receipt by the Settlement Administrator, not be a Settlement Class Member and shall be barred from participating in any portion of the Net Settlement Fund. However, the person may not opt out of the PAGA portion of the settlement and release as described below. Class Members will receive their portion of the PAGA Amount regardless of their decision to opt out of the class settlement.

**OBJECT TO THE SETTLEMENT**

You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may timely submit a written objection directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Your written objection must include your name, address, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, together with any evidence in support of your objection. Written objections must be postmarked on or before <<RESPONSE DEADLINE>>. You may also object by appearing at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 17 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. You have the right to appear either in person or through your own attorney at this hearing, although you do not need to appear at the Final Approval Hearing for your objection to be considered. All objections or other correspondence must state the name and number of the case, which is *Marcos Garnica v. Social Retail Services, Inc., et al.*, Los Angeles County Superior Court, Case No. 21STCV08762. As stated, if you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object.

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[Why should you read this Notice?](#)

The Court has granted preliminary approval of a proposed settlement (the “Settlement”) in the matter of *Marcos Garnica v. SoCal Retail Services, Inc., et al.*, Los Angeles County Superior Court, Case No. 21STCV08762 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. So Cal Retail Services, Inc.’s (“Defendant”) records show that you were employed by So Cal Retail Services, Inc. as a non-exempt hourly employee in California between March 5, 2017 and March 31, 2022 (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

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#### **What is this Lawsuit about?**

Plaintiff Marcos Garnica (“Plaintiff”) brought this Lawsuit against Defendants seeking to assert claims on behalf of a class of all current and former hourly non-exempt employees similarly situated to Plaintiff who worked for So Cal Retail Services, Inc. in California from March 5, 2017 through March 31, 2022. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Class Members, are known as “Class Counsel.”

The Lawsuit alleges that Defendant: (i) failed to pay employees all earned minimum and overtime wages; (ii) failed to provide all legally required meal periods and rest periods or compensation in lieu thereof; (iii) failed to provide accurate and itemized wage statements; (iv) failed to timely pay all wages due or final wages due upon separation of employment; (v) failed to reimburse for all necessary business expenses; and (vi) engaged in unlawful business practices as a result of the above-mentioned alleged violations. The Lawsuit further alleges that Defendant is also liable for civil penalties under the California Labor Code Private Attorneys General Act (“PAGA”).

**Defendant denies that it has done anything wrong. Defendant also denies that it owes Class Members any wages, restitution, statutory or civil penalties, damages, or any other remedies. Accordingly, the Settlement is a compromise of disputed claims and should not be considered as an admission of liability on the part of Defendant, by whom all liability is expressly denied.**

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of the Court not allowing the case to proceed as a class action, the risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

The Court has not ruled on the merits of the claims alleged in the Lawsuit. In granting preliminary approval of the Settlement, the Court has determined only that there is sufficient evidence to suggest that the Settlement might be fair, adequate, and reasonable. A final determination on whether the Settlement is fair, adequate, and reasonable will be made at the Final Approval hearing.

**Your decision about whether to participate in the Settlement will not affect your employment. California law and Defendant’s policies strictly prohibit unlawful retaliation.** Defendant will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member because of his or her decision to either participate or not participate in the Settlement.

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#### Who are the Attorneys?

|                                                                                                                                                                                                                  |                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Attorneys for Plaintiff/Settlement Class:                                                                                                                                                                        | Attorneys for Defendant:                                                                                                                                                              |
| <b>STANSBURY BROWN LAW, PC</b><br>Daniel J. Brown<br>Ethan C. Surls<br>dbrown@stansburybrownlaw.com<br>2610 ½ Abbot Kinney Blvd.<br>Venice, California 90291<br>Tel: (323) 204-3124<br>www.stansburybrownlaw.com | <b>GORDON REES SCULLY MANSUKHANI, LLP</b><br>Lisa K. Garner<br>lgarner@grsm.com<br>633 West Fifth St., 52 <sup>nd</sup> Floor<br>Tel: (213) 576- <del>5043</del> 5000<br>www.grsm.com |

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#### What are the terms of the Settlement?

Defendants have agreed to pay \$250,000.00 (the “Maximum Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Class Members, Class Counsel’s attorneys’ fees and expenses, Settlement administration costs, and the Class Representative’s Incentive Payment.

The following deductions from the Maximum Settlement Amount will be requested by the Parties:

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Maximum Settlement Amount. Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for up to one-third of the Maximum Settlement Amount, which is currently estimated at \$83,333.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000.00 in verified costs incurred in connection with the Lawsuit.

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to ~~\$5,7506,500~~5,000.00 from the Maximum Settlement Amount to pay the settlement administration costs. Additionally, the Settlement Administrator will calculate Defendant’s share of the payroll taxes that will be paid from the Maximum Settlement Amount.

Class Representative Incentive Payment. Class Counsel will ask the Court to award the Class Representative an Incentive Payment in the amount of \$5,000.00 to compensate him for his service and extra work provided on behalf of the Class Members.

Payment to State of California. The Parties have agreed to allocate \$5,000.00 towards the Settlement of the PAGA claims in the Lawsuit. \$3,750.00 will be paid to the State of California Labor and Workforce Development Agency (“LWDA”), representing its 75% share of the PAGA civil penalties. The remaining \$1,250.00 will be allocated to individuals who were employed by Defendant’s as non-exempt employees during the time period of March 5, 2020 to March 31, 2022.

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Calculation of Class Members' Settlement Awards. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the "Net Settlement Fund," which will be distributed to all Class Members who do not submit a valid and timely Request for Exclusion Form ("Settlement Class Members") (described below). The Net Settlement Fund is estimated at approximately \$135,000.00, and will be divided as follows:

- (i) 20% of the Net Settlement Fund shall be designated as the "Waiting Time Amount" and will be allocated in equal amounts to all Settlement Class Members whose employment with So Cal Retail Services, Inc. ended at any time between March 5, 2018 and March 31, 2022 ("Waiting Time Period").
- (ii) 15% of the Net Settlement Fund shall be designated as the "Wage Statement Amount" and will be allocated to Settlement Class Members based on the proportionate number of pay periods that they each worked between March 5, 2020 and March 31, 2022 ("Wage Statement Period").
- (iii) The remainder of the Net Settlement Fund will be distributed to each Settlement Class Member based on the proportionate number of Eligible Workweeks (defined as any workweek in which the Settlement Class Member worked at least one day during the workweek based on Defendant's records) that he or she worked during the Class Period (March 5, 2017 to March 31, 2022).

Calculation of Individuals PAGA Awards. \$1,250.00 of the Maximum Settlement Amount has been designated as the "PAGA Amount." Each individual who was employed by Defendant at any time from March 5, 2020 to March 31, 2022 as a non-exempt employee, shall receive a portion of the PAGA Amount based on the number of proportionate pay periods that he or she worked during the time period of March 5, 2020 to March 31, 2022 ("PAGA Period"). Class Members shall not have the right to opt out of the PAGA portion of the settlement, and will receive their portion of the PAGA Amount regardless of their decision to opt out of the class settlement.

Payment of the Settlement. If the Court grants final approval of the Settlement, Individual Settlement Awards will be mailed to all Class Members for their portion of the PAGA Amount regardless of whether they submit a Request for Exclusion Form. In addition, Settlement Class Members will receive additional compensation as part of their Individual Settlement Awards comprised of their portion of the Net Settlement Fund as described above.

Allocation and Taxes. For tax purposes, each Individual Settlement Award shall be treated as follows: 20% as "wages" subject to normal payroll withholdings, for which an IRS Form W-2 will be issued; and 80% as penalties and interest with no withholdings, for which an IRS Form 1099 will be issued. For Class Members who opt out of the class portion of the settlement and receive only their portion of the PAGA Amount, 100% of the PAGA Amount shall be treated as penalties with no withholdings, for which an IRS Form 1099 will be issued. Class Members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of awards they receive under the Settlement.

Class Release. ~~If the Court approves Plaintiff and every member of the Settlement, the Settlement Class, and each Settlement Class Member (except those who opt out)~~ will fully release and discharge Defendant ~~So Cal Retail Services, Inc., its past and/or present officers, directors, shareholders, and employees/managers, supervisors, owners, agents, principals, heirs, representatives, and its respective successors, predecessors in interest, parents, subsidiaries, affiliates/insurers, and attorneys (collectively, the "Released Parties") for any and all from all Released Claims.~~ "Released Claims" means all claims, rights, demands, liabilities, and causes of action, that were alleged, or reasonably could have been pleaded/alleged, based upon, arising from, or related to, on the factual allegations set forth in the operative complaint/Operative Complaint and ascertained in the Lawsuit or course of the LWDA Notice Action, including, but not limited to any and all claims for: (a) failure to pay all regular wages, minimum wages, and overtime wages due; (b) failure to provide meal periods or compensation in lieu thereof; (c) failure to provide rest periods or compensation in lieu thereof; (d) failure to reimburse necessary business expenses; (e) failure to provide complete, accurate wage statements; (f) failure to pay wages timely at time of termination or resignation; ~~(g) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; and h) all claims under the California Labor Code Private Attorneys General Act of 2004 or for civil penalties that could have~~

been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint including but not limited to Labor Code sections 210, 226.3, 1197.1, 558, and 2699. For members of the Settlement Class who do not validly opt out, the release period shall run from March 5, 2017 through March 31, 2022 (“Class Period”); and (g) unfair business practices that could have been premised on all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth above, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period. This release shall apply to all Participating Class Members and all claims arising during the Class Period.

PAGA Release. Plaintiff and every non-exempt employee who worked for Defendant from March 5, 2020 through March 31, 2022 (“Aggrieved Employees”) will fully release and discharge the Released Parties from all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), for claims that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and ascertained in the course of the Lawsuit and the March 5, 2022 letter Plaintiff sent to the California Labor and Workforce Development Agency (“LWDA”) (“PAGA Notice”), including any and all claims for civil penalties for violations of Labor Code sections 201 - 204, 210, 226, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2699 (collectively, the “PAGA Released Claims”), regardless of whether the Aggrieved Employee opts out from the Settlement Agreement. The release period shall run from March 5, 2020 through March 31, 2022 (“PAGA Period”). Except as set forth above, Aggrieved Employees do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

#### ***How can I claim money from the Settlement?***

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks in which you worked at least one day based on Defendant’s records (“Eligible Workweek”) during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you separated from your employment with So Cal Retail Services, Inc. during the Waiting Time Period, as stated in this Notice. You also will be bound by the Settlement, including the release of claims stated above. **IT IS IMPORTANT THAT IF AT ANY POINT AFTER RECEIVING THIS NOTICE YOU CHANGE YOUR ADDRESS THAT YOU PROMPTLY ADVISE THE SETTLEMENT ADMINISTRATOR OF YOUR NEW ADDRESS SO AS TO ENSURE THAT YOUR PORTION OF THE SETTLEMENT IS RECEIVED.**

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#### ***What other options do I have?***

Dispute Information in Notice of Settlement Award. Your Individual Settlement Award is based on the proportionate number of Eligible Workweeks you worked during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you have separated from your employment with Socal Retail Services, Inc. during the Waiting Time Period. The information contained in Defendants’ records regarding each of these factors, along with your estimated Individual Settlement Award, is listed below. If you disagree with the information listed below, you may submit a dispute, along with any supporting documentation, to <<ADMINISTRATOR CONTACT INFO>>. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Settlement Administrator will determine whether any adjustments are warranted, and if so, will consult with the Parties and make a determination as to whether an adjustment will be made.

According to Defendant's records:

- (a) you worked for Socal So Cal Retail Services, Inc. in California from [REDACTED] to [REDACTED];
- (b) you worked [REDACTED] Eligible Workweeks between March 5, 2017 and March 31, 2022, for So Cal Retail Services, Inc.;
- (c) you worked [REDACTED] pay periods between March 5, 2020 and March 31, 2022 for So Cal Retail Services, Inc.; and
- (d) your employment with So Cal Retail Services, Inc. <<DID/DID NOT>> end between March 5, 2018 and March 31, 2022.

The PAGA portion of your Individual Settlement Award (which you may not opt-out of) is estimated at \$ [REDACTED]. Based on the above, your Individual Settlement Award is estimated at \$ [REDACTED]. The lowest Individual Settlement Award to a Settlement Class Member is estimated at \$ [REDACTED]. The highest Individual Settlement Award to a Settlement Class Member is estimated at \$ [REDACTED].

Exclude Yourself from the Class Portion of the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself from the class portion of the settlement by completing a requestthe attached Request for exclusion stating "I do not wish to take part in the settlement in the matter of Garnica v. So Cal Retail Services, Inc.," Exclusion Form and sending it to the Settlement Administrator postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, and your signature.

Send the request for exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely request for exclusion, shall, upon receipt by the Settlement Administrator, not be a Settlement Class Member and shall be barred from participating in any portion of the Net Settlement Fund. However, the person may not opt out of the PAGA portion of the settlement and release as described above. Class Members will receive their portion of the PAGA Amount regardless of their decision to opt out of the class settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may timely submit a written objection directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Your written objection must include your name, address, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, together with any evidence in support of your objection. Written objections must be postmarked on or before <<RESPONSE DEADLINE>>.

You may also object by appearing at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 17 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. You have the right to appear either in person or through your own attorney at this hearing, although you do not need to appear at the Final Approval Hearing for your objection to be considered. The Court will hear from any Class Member who attends the Final Approval Hearing and asks to speak regarding his or her objection, regardless of whether a written objection was submitted. All objections or other correspondence must state the name and number of the case, which is *Marcos Garnica v. Socal Retail Services, Inc., et al.*, Los Angeles County Superior Court, Case No. 21STCV08762.

Should you elect to appear at the Final Approval Hearing in person, please be sure to adhere to the Court's social distancing procedures for attendance at hearings and review of court files. Pertinently, should you decide to physically attend the Hearing, please be advised that **face masks and/or facial coverings are required at all times to enter any courthouse or courtroom and must be worn covering the nose and mouth.** Do not enter the courthouse if you i) have tested positive for COVID-19 within the last 10 days AND have not been fever free for 24 hours; ii) You have been ordered to quarantine or have been in contact (within 6 feet and more than 15 minutes) with a person known to be or suspected of being COVID-19 positive within the last 14 days; or iii) You are experiencing COVID-19 symptoms.

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If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object.

***What is the next step?***

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 17 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Class Representative Incentive Payment to Plaintiff. **You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing.**

***How can I get additional information?***

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012, during regular court hours. You may also view the case file online at <https://www.lacourt.org/casesummary/ui/> and entering the case number information. This case is assigned to Department 17 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. The Settlement Agreement is attached as Exhibit A to the Declaration of Daniel J. Brown in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, filed on <<DATE PRELIMINARY APPROVAL MOTION FILED>>. You may also view the Settlement Agreement, complaint, the final order and judgment, any change to the hearing date and time, and other relevant documents and information by going to the website: [Phoenixclassaction.com/GarnicaSoCalRetail](http://Phoenixclassaction.com/GarnicaSoCalRetail). You may also contact the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>> for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS**

***REMINDER AS TO TIME LIMITS***

The deadline for submitting a Request for Exclusion or Objection or any dispute is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

**BY ORDER OF THE COURT ENTERED ON <<PRELIMINARY APPROVAL DATE>>.**

# **EXHIBIT E**

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STANSBURY BROWN  

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LAW  
March 5, 2021

**VIA LWDA WEBSITE**

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

Re: *Marcos Garnica v. SoCal Retail Services, Inc., et al*

To Whom It May Concern:

Please be advised that this law firm represents Marcos Garnica in claims arising from his employment with SoCal Retail Services, Inc.; and Does 1 through 100 (collectively “SCR”) Mr. Garnica is an “aggrieved employee” as defined by Labor Code Section 2698 *et seq.*, due to SCR’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Sections 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

Mr. Garnica commenced employment with Defendants as a non-exempt employee, in the position of “General Laborer” from around May 2020 until his Wrongful Termination on or about August 21, 2020. Plaintiff typically worked a varied schedule that ultimately equated to 40-50 hours of work per week. Due to SCR’S policy/practice of intentionally understaffing its job sites, Mr. Garnica and other aggrieved employees were typically required to be on-duty during the entire duration of their shifts the vast majority of the time, outside of the occasional half-hour (or less) they were allotted for meal periods. The “aggrieved employees” whom Mr. Garnica seeks to represent are the other non-exempt employees of SCR who were subject to the Labor Code violations as alleged herein.

At various times during the relevant time period, SCR required Mr. Garnica and other aggrieved employees to work off-the-clock. For example, Mr. Garnica and the aggrieved employees would work off-the-clock for numerous hours by virtue of working through their unpaid meal periods (time which was automatically deducted from their timecards regardless of whether or not a meal period was exercised). SCR was aware, or reasonably should have been aware, that this off-the-clock work was being performed but failed to compensate Mr. Garnica and other aggrieved employees for such off-the-clock work, most of which constituted overtime hours worked.

Mr. Garnica and other aggrieved employees routinely worked in excess of 8 hours per workday and/or 40 hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours.

Specifically, SCR paid Mr. Garnica and other aggrieved employees under multiple payment structures with varying hourly rates which are not excludable from the regular rate of pay. On information and belief, this is in part due to Defendants' failure to properly blend all hourly rates in a given pay period to determine the proper regular rate of pay for calculating overtime. Despite SCR's payment of Overtime Pay to Mr. Garnica and other aggrieved employees, SCR failed to properly calculate the proper regular rate of pay, thereby causing Mr. Garnica and other aggrieved employees to be underpaid all required overtime wages.

During Mr. Garnica and other aggrieved employees' employment with SCR, Mr. Garnica and other aggrieved employees were not provided all required meal periods due to SCR's meal period policies/practices which fail to provide uninterrupted, duty-free 30-minute meal periods prior to the sixth hour of work commencing. For example, SCR required Mr. Garnica and other aggrieved employees to remain on the job site and to work through their meal periods or to cut short their meal periods in order to deal with intense deadlines imposed by them, despite the nature of the work not prohibiting Mr. Garnica and other aggrieved employees from taking a meal period because SCR could have provided adequate relief that would have allowed Mr. Garnica and other aggrieved employees to take a meal period. As a result of this policy/practice, Mr. Garnica and other aggrieved employees were not permitted to take off-duty meal periods because SCR did not provide for coverage of their job duties despite the opportunity to do so. Furthermore, SCR unlawfully maintained a policy/practice of automatically deducting thirty minutes from the timecards of Mr. Garnica and other aggrieved employees falsely stating that they exercised their meal periods regardless of whether or not they were actually afforded an opportunity to do so.

In addition, to SCR's failure to provide Mr. Garnica and other aggrieved employees with all legally required first meal periods, SCR also failed to provide second meal periods to Mr. Garnica and other aggrieved employees when they worked shifts in excess of 10.0 hours.

On those occasions when Mr. Garnica and other aggrieved employees were not provided with all legally-compliant meal periods to which they were entitled, SCR failed to compensate Mr. Garnica and other aggrieved employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Further, during at least a portion of the time period in question, SCR maintained no payroll code or other mechanism for the payment of meal period premium payments under Labor Code § 226.7 in the event that a legally compliant meal period was not provided to Mr. Garnica and other aggrieved employees.

Mr. Garnica and other aggrieved employees were also not authorized and permitted to take all required rest periods due to SCR's rest period policies/practices, which fail to authorize and permit all rest periods for every four hours worked, or major fraction thereof. As stated above, Mr. Garnica and other aggrieved employees were constantly required to attend to their work duties, without interruption of breaks, and

therefore, SCR failed to authorize and permit Mr. Garnica and other aggrieved employees off-duty rest periods that were completely free of employer control, in violation of California law. For example, while the policy varied from job site to job site, the majority of the time that Mr. Garnica and the aggrieved employees worked for SCR, they were unable to exercise the use of legally compliant duty-free rest periods and instead were instructed to continue working through their shifts in order to meet the construction deadline demands imposed on them by SCR. On those occasions when Mr. Garnica and other aggrieved employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, SCR failed to compensate Mr. Garnica and other aggrieved employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7. Furthermore, upon information and belief, during at least a portion of the class period, SCR maintained no payroll code or other mechanism for the payment of rest period premium payments under Labor Code § 226.7 in the event that a legally compliant rest period was not provided to Mr. Garnica or other aggrieved employees.

SCR failed to adequately reimburse Mr. Garnica and other aggrieved employees for all reasonable and necessary work expenditures, including failing to reimburse for gas and mileage despite requiring Mr. Garnica and other aggrieved employees to utilize their personal vehicles in the furtherance of SCR's business activities, failing to reimburse for cellular phone use necessarily required by SCR in furtherance of their business activities, and failed to reimburse for required and necessary expenses associated with the purchase of personal protective equipment.

As a result of SCR's failure to pay all minimum wages, overtime wages, meal and rest period premium wages, SCR maintained inaccurate payroll records, and issued inaccurate and facially deficient wage statements. Furthermore, for at least a portion of Mr. Garnica and other aggrieved employees' employment, SCR issued facially deficient wage statements that falsely stated that they exercised their use of a meal period, regardless of what time or if their meal periods were even exercised, through their utilization of an auto-deduct system, in violation of Labor Code § 226(a).

As a further result of SCR's failure to pay all minimum wages, overtime wages, and meal and rest period premium wages, SCR failed to pay all wages owed to Mr. Garnica and other aggrieved employees upon their separation of employment from SCR.

As described above, SCR committed the following violations of the Labor Code, and Industrial Welfare Commission Wage Order 16 ("Wage Order 16"):

#### Minimum Wage Violations

SCR was required to pay Mr. Garnica and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. See Labor Code §§ 1182.12, 1194; 1194.2, 1197; Wage Order 16, § 4. As alleged above, SCR maintained and maintains timekeeping policies/practices that regularly, systematically, and impermissibly

underreport the hours worked by Mr. Garnica and other aggrieved employee whether by rounding, time-shaving, or otherwise. As a result of these policies/practices, which fail to compensate for all hours worked, Mr. Garnica and other aggrieved employees were deprived of all required minimum wages.

#### Overtime Wage Violations

SCR was required to pay Mr. Garnica and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; Wage Order 16, § 3. According to Labor Code § 510(a), “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.” This Section further provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” However, as alleged above, SCR failed to pay Mr. Garnica and other aggrieved employees for time spent working off-the-clock, time that should have been compensated at an overtime rate of pay.

#### Meal Period Violations

As alleged above, SCR failed to provide Mr. Garnica and other aggrieved employees with all required and compliant meal periods, due to SCR’s meal period policies/practices that often fail to provide off-duty first meal periods before the end of the fifth hour of work or to provide second meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 16, § 11. As a result, Mr. Garnica and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”).

#### Rest Period Violations

As alleged above, SCR also failed to authorize and permit Mr. Garnica and other aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 16, § 12. As a result, Mr. Garnica and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer

shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

#### Failure to Reimburse for Necessary Business Expense

At all relevant times herein, SCR were subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer..." Due to SCR's unlawful policy and practice of requiring employees to use their personal vehicles and cellular phones in the performance of their job duties, SCR has violated Labor Code § 2802.

#### Wage Statement Violations

SCR was required to furnish Mr. Garnica and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, total net wages earned, and the name and address of the legal entity that is the employer. See Labor Code §§ 226(a) and 1174(d); Wage Order 16, § 7. As a result of SCR's failure to pay all overtime and minimum wages, and failure to pay all required meal and rest period premium wages, SCR maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Garnica and other aggrieved employees in violation of Labor Code § 226. SCR's failure to comply with its wage statement obligations was knowing and intentional, and Mr. Garnica and other aggrieved employees have suffered injury as a result.

#### Waiting Time Penalties

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

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

- a. SCR violated Labor Code §§ 558, 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Mr. Garnica and other aggrieved employees the statutory minimum wage for all hours worked;
- b. SCR violated Labor Code §§ 204, 510, 1194 and 1198 by failing to pay Mr. Garnica and other aggrieved employees all overtime compensation earned;
- c. SCR violated Labor Code §§ 226.7, 512, and 1198 by failing to provide meal periods as required by law and failing to pay meal period premiums to Mr. Garnica and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- d. SCR violated Labor Code §§ 226.7, 516, and 1198 by failing to authorize and permit Mr. Garnica and other aggrieved employees all required rest periods and failing to pay rest period premiums to Mr. Garnica and other aggrieved employees at these employees' respective regular rates of compensation for rest period violations;
- e. SCR violated Labor Code § 226 by failing to furnish Mr. Garnica and other aggrieved employees with accurate and compliant itemized wage statements;
- f. SCR violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Garnica and other aggrieved employees;
- g. SCR violated Labor Code § 204 by failing to pay Mr. Garnica and other aggrieved employees all wages earned at least twice during each calendar month; and
- h. SCR violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Garnica and other aggrieved employees.

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

Very truly yours,  
STANSBURY BROWN LAW



Ethan C. Surls

cc: SoCal Retail Services, Inc. (via certified mail)



**LWDA DO NOT REPLY** <lwdadonotreply@dir.ca.gov>

to me ▾

12:50 PM (0 minutes ago)



3/5/2021

LWDA Case No. LWDA-CM-823807-21

Law Firm : Stansbury Brown Law

Plaintiff Name : Marcos Garnica

Employer: SoCal Retail Services, Inc.

Filing Fee : \$75.00

IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private\\_Attorneys\\_General\\_Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

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**PROOF OF SERVICE**

STATE OF CALIFORNIA            )  
                                                  )       ss.  
COUNTY OF LOS ANGELES       )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 2610 ½ Abbot Kinney Blvd. Venice, CA 90212

On November 29, 2022, I served the document listed below on the parties in this action as follows:

- **SUPPLEMENTAL DECLARATION OF DANIEL J. BROWN IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

- ☐ (BY MAIL) I placed such envelope on the above date, with postage fully prepaid, for deposit in the U.S. Postal Service at my place of business at Venice, California, following the ordinary business practices of my place of business. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mail with the U.S. Postal Service. Under that practice, such correspondence is deposited with the U.S. Postal Service the same day it is collected and processed in the ordinary course of business.
- X (BY CASE ANYWHERE) I caused to be transmitted the document(s) described herein via the CaseAnywhere(s) listed on the attached service list.
- X (BY LWDA ONLINE PORTAL) I caused to be transmitted the document(s) described herein via the LWDA online portal listed on the attached service list.
- X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 29, 2022, at Redondo Beach, California.



Ethan C. Surls

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**SERVICE LIST**

**Gordon Rees Scully Mansukhani, LLP (VIA CASE ANYWHERE)**

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Attorneys for Defendant  
SoCal Retail Services, Inc.

**Labor and Workforce Development Agency (VIA LWDA ONLINE PORTAL)**

Online Submission Portal  
<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>