

STIPULATION OF SETTLEMENT AND RELEASE OF PAGA ACTION

This Stipulation of Settlement and Release of PAGA Action ("Agreement") is made and entered into between Plaintiffs Magda Castro and Steven Diaz ("Plaintiffs"), individually and on behalf of the proposed PAGA Group, (defined below), and Defendants Ross Dress For Less, Inc. and DMSI Staffing, LLC ("Defendants"), collectively the "Parties". This Agreement is subject to approval of the Court and is made for the sole purpose of attempting to consummate settlement of the Action (as defined below) on a PAGA basis subject to the following terms and conditions. As detailed below, in the event the Court does not enter an order granting approval of the PAGA Settlement (as defined below) and enter judgment, or the conditions precedent are not met for any reason, this Agreement is void and of no force or effect whatsoever.

1. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings specified below. To the extent terms or phrases used in this Agreement are not specifically defined below, but are defined elsewhere in this Agreement, they are incorporated by reference into this definition section.

1.1 **Action.** "Action" shall mean this civil action entitled *Magda Castro v. Ross Dress For Less, Inc., et al.*, Kern County Superior Court Case No. BCV-21-101490 JEB, filed on or about June 30, 2021, and as amended on August 2, 2021 (First Amended Complaint), September 21, 2021 (Second Amended Complaint), and the Third Amended Complaint which the parties will stipulate to the filing concurrently with the filing of Plaintiff's motion for approval of the Settlement, the claims in the action entitled *Steven Diaz v. DMSI Staffing, LLC, et al.*, Riverside County Superior Court Case No. RIC 2001550, filed on June 8, 2020 (which are to be or have been dismissed in Riverside County Superior Court and added to this Action in the Third Amended Complaint) and the underlying PAGA Notices sent to the Labor and Workforce Development Agency ("LWDA") by Plaintiff Castro on April 23, 2021 and by Plaintiff Steven Diaz on March 18, 2020.

1.2 **Approval and Fairness Hearing.** "Approval and Fairness Hearing" shall mean the hearing held to ascertain the fairness, reasonableness, and adequacy of the PAGA Settlement. At this hearing, the Court will consider PAGA Counsel's application for Attorneys' Fees and

Expenses, the PAGA Representative Incentive Award, the Administration Expenses, and approval of the PAGA Payment. The proposed Order Granting Approval and Entering Judgment is attached, in substantial form, as **Exhibit B**.

1.3 **Approval Date.** "Approval Date" shall mean the date upon which the Court enters an order granting approval of the PAGA Settlement and enters Judgment.

1.4 **Claims.** "Claims" shall mean the claims and theories asserted and causes of action alleged in the Action, or that could have been alleged in the Action, including the PAGA penalties alleged in the Action.

1.5 **Court.** "Court" shall mean the Superior Court of California, County of Kern.

1.6 **Defendants.** "Defendants" shall mean Ross Dress For Less, Inc. and DMSI Staffing, LLC.

1.7 **Defense Counsel.** "Defense Counsel" shall mean Gregory D. Wolflick and Theodore S. Khachaturian of Wolflick, Khachaturian & Bouayad, APC.

1.8 **Effective Date.** "Effective Date" shall be the first day following the last of the following occurrences:

1.8.1 The date on which the time to seek to appeal or seek permission to appeal or seek other judicial review of the entry of the Final Judgment and Order of Dismissal has expired with no appeal for other judicial review having been taken or sought; or

1.8.2 If an appeal or other judicial review has been taken, the latest of: (i) the date the Final Judgment and Order of Dismissal is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review therefrom; or (ii) the date the appeal(s) or other judicial review therefrom are finally dismissed with no possibility of subsequent appeal or other judicial review; or (iii) if remanded to the trial court or to a lower appellate court following appeal or other review, the date the Final Judgment and Order of Dismissal is entered by the trial court after remand and the time to appeal or seek permission to appeal or seek other judicial review following remand has expired with no further appeals or other judicial review having been taken or sought. If further appeals are sought or taken after a remand, the time periods in this Sub-Section shall apply.

1.9 **Enhancement Payment or Enhancement Award** means a monetary award subject to Court approval of up to Ten Thousand Dollars (\$10,000) per Plaintiff, for a total of no more than Twenty Thousand Dollars (\$20,000) for both Plaintiffs that will be paid to Plaintiffs

pursuant to Section 5.6 of this Agreement.

1.10 **Gross Settlement Amount.** “Gross Settlement Amount” means the agreed upon settlement amount totaling \$2,492,440.00, to be paid by Defendants in full settlement of the Released Claims asserted in this case. The Net Settlement Amount available to Settlement Group Members in Individual Settlement Payments is Six Hundred Twenty-Three Thousand One Hundred Ten Dollars (\$623,110), or 25% of the Gross Settlement Amount. The remaining 75% of the Gross Settlement Amount, which shall represent the LWDA’s 75% share of the civil penalties recovered, shall be split as follows: (a) Settlement Administration Fees; (b) Attorneys’ Fees and Costs; (c) Enhancement Awards to Plaintiffs, with the remainder of the 75% of the Gross Settlement Amount to be paid to the LWDA. In no event shall Defendants be required to pay more than the Gross Settlement Amount.

1.11 **Individual Settlement Payment.** “Individual Settlement Payment(s)” shall mean the proportionate share of the Net Settlement Amount to be distributed to each PAGA Member based on the formula set forth in Paragraph 5.2 herein.

1.12 **LWDA Payment.** “LWDA Payment” shall mean 75% of the Gross Settlement Amount less (a) Settlement Administration Fees; (b) Attorneys’ Fees and Costs; and (c) Enhancement Awards to Plaintiffs.

1.13 **Net Settlement Amount.** “Net Settlement Amount” or “NSA” shall mean 25% of the Gross Settlement Amount or Six Hundred Twenty-Three Thousand One Hundred Ten Dollars (\$623,110). The Parties intend that the NSA shall be sufficient to pay all valid claims of Settlement Group Members. Accordingly, if for any reason the total value of Individual Settlement Payments to Settlement Group Members exceeds this amount, then payment to each Settlement Group Member will be adjusted on a pro-rated basis so that the total payout to Settlement Group Members does not exceed the NSA.

1.14 **PAGA:** “PAGA” refers to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*

1.15 **PAGA List:** “PAGA List” shall mean the information for each PAGA Member which Defendants shall compile from their business records and provide to the Administrator for

1 purposes of providing notice of the Settlement to the PAGA Group. The PAGA List shall be in a
2 readable, ready to use, MS Excel spreadsheet, which will provide for each Settlement Group
3 Member, the following information: (a) full name; (b) last-known mailing address; (c) telephone
4 numbers; (d) Social Security number; (e) dates of employment; (f) the number of pay periods
5 worked at Defendants' Central Valley Distribution Center during the period of August 2021 until
6 end of October 2021, and (g) the number of pay periods worked at any of Defendants' distribution
7 centers in California between March 18, 2019 and November 8, 2020. The PAGA List will be
8 provided to the Settlement Administrator within 21 days of Defendants receiving written
9 notification that the Court granted approval of the Settlement.

10 1.16 **PAGA Counsel:** "PAGA Counsel" collectively refers to Dennis F. Moss, Ari E.
11 Moss and Jeremy F. Bollinger, Moss Bollinger LLP, 15300 Ventura Blvd., Suite 207, Sherman
12 Oaks, CA 91403, David Yeremian, David Yeremian & Associates, Inc., 880 E. Broadway,
13 Glendale, CA 91205, Emil Davtyan and Alvin B. Lindsay, D.Law, Inc., 880 E. Broadway,
14 Glendale, CA 91205, and Joseph M. Hekmat, Hekmat Law Group, 2121 Avenue of the Stars, Ste.
15 800, Los Angeles, CA 90067.

16 1.17 **PAGA Counsel's Attorneys' Fees and Expenses:** "PAGA Counsel's
17 Attorneys' Fees and Expenses" shall mean PAGA Counsel's attorneys' fees and expenses
18 to be requested and subject to approval by the Court at the time of the Approval Hearing in an
19 amount not to exceed \$872,354 (35% of the Gross Settlement Amount) for attorneys' fees and in
20 an amount not to exceed \$18,845.53 for expenses.

21 1.18 **PAGA Member(s):** "PAGA Member(s)" and "Settlement Group Members"
22 shall mean all current and former non-exempt employees of Defendants who worked for
23 Defendants at Defendants' Moreno Valley Distribution Center ("MVDC"), Southwest Distribution
24 Center ("SWDC") and/or the Central Valley Distribution Center ("CVDC") during the PAGA
25 Period.

26 1.19 **PAGA Period.** "PAGA Period" means the period from March 18, 2019 through
27 November 1, 2023.

28 1.20 **PAGA Release.** See Released Claims.

1 1.21 **Parties.** “Parties” shall mean Plaintiffs (as defined below) and Defendants.

2 1.22 **Plaintiffs.** “Plaintiffs” and “PAGA Representatives” shall mean Plaintiffs
3 Magda Castro and Steven Diaz.

4 1.23 **Released Claims.** “Released Claims” shall mean all claims and theories that
5 were set forth, or that could have been set forth based on the facts alleged in the Action during the
6 PAGA Period, including but not limited to claims for civil penalties under PAGA for violations of
7 California Labor Code sections 201-203 (including 201.3), 204, 210, 218, 218.6, 221, 225.5, 226,
8 226.3, 226.7, 245, 246, 256, 432.5, 510, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1175, 1194,
9 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 2810.5, 2698 *et seq.*, and IWC Wage Order
10 7-2001, based on Defendants’ alleged failure to pay wages for all hours worked during the time
11 spent undergoing security checks and COVID checks, failure to reimburse business expenses,
12 failure to pay at the regular rate of pay, failure to provide duty free meal and rest periods, failure to
13 pay meal and rest break premiums at the regular rate of compensation, failure to pay sick leave at
14 the regular rate of pay, and derivative liability for failure to provide accurate wage statements, and
15 failure to timely pay all wages upon cessation of employment, and derivative liability theories for
16 failure to provide accurate wage statements and failure to timely pay all wages upon cessation of
17 employment to employees at Defendants’ distribution centers in California.

18 1.24 **Released Parties.** “Released Parties” shall mean Ross Stores, Inc., Ross Dress
19 for Less, Inc., DMSI Staffing, LLC, Real Time Staffing Services, EmployBridge LLC,
20 EmployBridge Holding Company, Ross Distribution Company, LLC, and any and all related
21 entities, affiliates, parent companies, subsidiaries, principals, directors, officers, employees,
22 attorneys, and accountants.

23 1.25 **Settlement.** “Settlement” shall mean the settlement between Parties, which is
24 memorialized in this Agreement, including any attached exhibits, and subject to Court approval.

25 1.26 **Settlement Administrator.** “Settlement Administrator” or “Administrator”
26 shall mean the third-party settlement administrator selected by the Parties and to be approved by
27 the Court, which the Parties have agreed will be responsible for administration of the Settlement
28 and related matters.

1.27 **Settlement Group.** “Settlement Group” or “Settlement Group Members” shall mean all PAGA Members.

1.28 **Settlement Letter.** “Settlement Letter” shall mean the letter accompanying the Individual Settlement Payments attached, in substantial form, as **Exhibit A.**

2. **FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

2.1 On June 8, 2020, Plaintiff Diaz filed a PAGA action in entitled *Steven Diaz v. DMSI Staffing, LLC, et al.*, Riverside County Superior Court Case No. RIC 2001550. On June 30, 2021, Plaintiff Castro filed this PAGA Action, entitled *Magda Castro v. Ross Dress For Less, Inc., et al.*, Kern County Superior Court Case No. BCV-21-101490 JEB. On August 2, 2021, Castro filed her First Amended Complaint and on September 21, 2021, she filed her Second Amended Complaint). To facilitate the Settlement, Plaintiff Diaz will dismiss his complaint and the parties agree to stipulate to the filing of a Third Amended Complaint in this Action to add Plaintiff Diaz and his claims for the purposes of this Settlement.

2.2 On September 23, 2021, Plaintiff Diaz and Defendants attended a mediation with Lisa Klerman, Esq. The mediation did not result in a settlement and the parties continued to litigate. On December 6, 2022, Plaintiffs Diaz and Castro attended a second mediation with Lisa Klerman, Esq. Plaintiffs requested, and received, informal discovery to evaluate the claims and theories alleged. Again, the mediation did not result in a settlement. However, the Parties, with the assistance of Ms. Klerman, continued to negotiate. Defendants provided additional information requested by Plaintiffs. After months of negotiation, the Parties again reached a stalemate. Ms. Klerman made a mediator’s proposal that both parties accepted. With the continued assistance of the mediator, they were able to resolve the matter, the terms of which are memorialized herein.

2.3 The Parties and their respective counsel believe this Agreement reflects a fair, adequate, and reasonable settlement of the Action and have arrived at this Agreement as a result of arms’-length negotiations, facilitated by an experienced and neutral mediator, taking into account all relevant factors, present and potential.

3. **ALLEGATIONS OF THE PAGA REPRESENTATIVES AND BENEFITS OF
THE SETTLEMENT**

3.1 The investigation and extensive exchange of information and informal discovery conducted in this matter, as well as discussions between counsel have been adequate to give PAGA Counsel an understanding of the merits of the Parties' respective positions and to evaluate the worth of the claims of the Settlement Group. The information and data exchanged by the Parties prior to and during mediation and settlement negotiations are sufficient to reliably assess the merits of the Parties' respective positions and to compromise the issues on a fair and equitable basis.

3.2 The Parties recognize and acknowledge the expense and delay of continued lengthy proceedings necessary to prosecute the Action against Defendants through trial and through appeals. PAGA Counsel has considered the uncertain outcome of the litigation, the risk of continued litigation in complex actions such as this, as well as difficulties and delays inherent in such litigation, as well as trying the claims of the Settlement Group. PAGA Counsel believes that the Settlement set forth in this Agreement confers substantial benefits upon Plaintiffs and the Settlement Group Members and that an independent review of this Agreement by the Court in the approval process will confirm this conclusion. Based on their own independent investigation and evaluation, PAGA Counsel has determined that the Settlement set forth in the Agreement is in the best interests of Plaintiffs and the Settlement Class Members.

4. **NO ADMISSION OF ANY LIABILITY**

4.1 This Agreement represents a compromise and settlement of highly disputed claims. This Agreement does not constitute, is not intended to constitute, and will not be deemed to constitute, an admission of liability by Defendants as to the merits, validity, or accuracy of any of the allegations or claims made against Defendants in the Action. Defendants deny each and all of Plaintiffs' allegations in their entirety.

4.2 Nothing in this Agreement nor any action taken or made in implementation thereof, nor any statements, discussions, or communications, nor any materials prepared, exchanged, issued, or used during the course of the negotiations leading to the Agreement, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used, or be

admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, the Agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Agreement or any orders or judgments of the Court entered into in connection therewith.

4.3 The Parties agree that Plaintiffs' motion for approval of the Settlement and Defendants' agreement thereto is for purposes of the Settlement only. If, for any reason, the Settlement is not approved, this Agreement will not be admissible in this or any other proceeding as evidence that (i) the Action should proceed forward, or (ii) Defendants are liable to Plaintiff or the Settlement Group Members as Plaintiffs alleged. In the event that this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Defendants will not be deemed to have waived, limited, or affected in any way any of their objections or defenses in the Action, including, but not limited to, their ability to move to compel arbitration, raise defenses in opposition to the Action, contest the merits of the claims and theories alleged, etc.

5. **SETTLEMENT CONSIDERATION**

5.1 **Gross Settlement and Net Settlement Amounts and Distribution.** The Gross Settlement Amount and other actions and forbearances taken by Defendants shall constitute adequate consideration for the Settlement and will be made in full and final settlement of: (a) the Released Claims, (b) PAGA Counsel's Attorneys' Fees and Expenses, (c) Administration Expenses, (d) LWDA Payment, (e) Enhancement Awards to Plaintiffs (if any) and (d) the Individual Settlement Payments to Settlement Group Members, and any other obligation of Defendants under this Agreement.

5.2 **Payments to Settlement Group Members.** Each Settlement Group Member shall be eligible to receive an Individual Settlement Payment according to the following formula:

- For each pay period in which a Settlement Group Member worked at the MVDC, the SWDC or the CVDC during the PAGA Period, the Settlement Group Member will receive one (1) Net Settlement Share;

- For each pay period in which a Settlement Group Member worked at the MVDC, the SWDC or the CVDC during the period March 18, 2019 and November 8, 2020, the Settlement Group Member will receive five (5) Net Settlement Shares reflecting the period before Ross began paying an additional one minute of pay per day;
- For each pay period in which a Settlement Group Member worked at the CVDC during the period of August 2021 through the end of October 2021, the Settlement Group Member will receive five (5) Net Settlement Shares reflecting the period during which there were acknowledged backups in the security check lines at the CVDC;
- For each Settlement Group Member whose employment terminated during the period of March 18, 2019 and November 1, 2023, the Settlement Group Member will receive five (5) additional Net Settlement Shares reflecting the Settlement Group Member's entitlement to penalties pursuant to Labor Code § 203;
- For each Settlement Group Member who was employed as a Loss Prevention employee who incurred mileage for drive time using their personal vehicles during the work day the Settlement Group Member will receive an additional flat sum of \$150 reflecting the Settlement Group Member's entitlement to mileage reimbursement pursuant to Labor Code § 2802;
- The Administrator shall then divide each Settlement Group Member's total Net Settlement Shares by the total of all Settlement Group Member's Net Settlement Shares in order to determine the "Percentage Share" of each Settlement Group Member.
- Each Settlement Group Member shall be entitled to receive an Individual Settlement Payment equal to his or her Percentage Share of the Net Settlement Amount.

The Parties understand that Settlement Group Members who receive an Individual Settlement Payment pursuant to this Agreement shall be solely responsible for any and all other individual tax obligations associated with the payment.

5.3 **No Effect on Employee Benefits.** Neither the Settlement nor any amounts paid under the Settlement will modify any previously credited hours, days, or weeks or service under any employee benefit plan, policy or bonus program sponsored by Defendants (or their affiliates, parents or successors). Such amounts will not form the basis for additional contributions to, benefit under, or any other monetary entitlement under Defendants' sponsored benefit plans, policies or bonus programs, if any. The payments made under the terms of this Settlement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendants' benefit plans, policies or bonus programs, if any. Defendants retain the right to modify the language of their benefits plans, policies and

1 bonus programs to effect this intent and to make clear that any amounts paid pursuant to this
2 Agreement are not for “weeks worked,” “weeks paid,” “weeks of service,” or any similar
3 measuring term as defined by applicable plans, policies and bonus programs for purpose of
4 eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or
5 benefits are not required by this Agreement. Defendants do not consider the Individual Settlement
6 Payments “compensation” for purposes of determining eligibility for, or benefit accrual within, any
7 benefits plan, policy, or bonus program, or any other plan or program sponsored by Defendants (or
8 their affiliates, parents or successors), if any.

9 5.4 **PAGA Counsel Attorneys’ Fees and Expenses.** As part of the motion for
10 approval of the Settlement, PAGA Counsel may submit an application for an award of Attorneys’
11 Fees and Expenses. Defendants agree not to object to any such fee, cost or expense application in
12 line with this Agreement and in an amount not to exceed 35% (meaning, \$872,354) of the Gross
13 Settlement Amount for attorneys’ fees and \$18,845.53 for costs. As a condition of this Settlement,
14 PAGA Counsel has agreed to pursue fees and costs only in the manner reflected by this Agreement.
15 Any PAGA Counsel Attorneys’ Fee and Expenses awarded by the Court shall be paid from the
16 75% of the Gross Settlement Amount allocated as penalties to the LWDA. If the PAGA Counsel
17 voluntarily reduces the request for Attorneys’ Fees and Expenses or the Court’s award is less than
18 set forth above, the difference shall be re-allocated to the LWDA Payment.

19 The Attorneys’ Fees and Expenses approved by the Court shall encompass: (a) all work
20 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
21 represent the Settlement Group through the date of this Agreement; (b) all work to be performed
22 and costs to be incurred in connection with approval by the Court of the Settlement set forth in this
23 Agreement; (c) all work to be performed and costs and expenses, if any, incurred in connection
24 with administering the Class Settlement through the Effective Date; and (d) may be based on the
25 Catalyst Theory and/or Common Fund Doctrine.

26 5.5 **Payment of PAGA Counsel Attorneys’ Fees and Expenses.** PAGA Counsel
27 Attorneys’ Fees and Expenses as awarded by the Court shall be paid by the Settlement
28 Administrator no later than fourteen (14) calendar days after Defendants provide the Settlement

1 Administrator with the Gross Settlement Amount.

2 5.6 **Payment of the Enhancement Payments to Plaintiffs.** Subject to Court approval,
3 Plaintiffs shall receive the Enhancement Payments for their services as PAGA representative and in
4 exchange for a general release of Plaintiffs' claims. Defendants will not oppose this request. The
5 Enhancement Payments will be paid from the 75% of the Gross Settlement Amount allocated as
6 penalties to the LWDA and is not allocated as payment to any PAGA Group Member. Plaintiffs shall
7 be paid the Court-awarded Enhancement Payments no later than fourteen (14) calendar days after
8 Defendants provide the Settlement Administrator with the Gross Settlement Amount. To the extent
9 that the Court approves less than the amount of the Enhancement Payments that Plaintiffs request,
10 the difference between the requested and awarded amount will be reallocated to the LWDA Payment.

11 Because it is the intent of the Parties that the Enhancement Payments represent payment
12 to Plaintiffs for services performed on behalf of the PAGA Group Members and not to be
13 considered wages, the Settlement Administrator will not withhold any taxes from the Enhancement
14 Payments. The Enhancement Payments will be reported on an IRS Form 1099, which the
15 Settlement Administrator will provide to Plaintiffs and to the pertinent taxing authorities as
16 required by law.

17 5.7 **Payment of LWDA Payment.** The LWDA Payment shall be paid by the
18 Settlement Administrator within no later than fourteen (14) calendar days after Defendants provide
19 the Settlement Administrator with the Gross Settlement Amount.

20 6. **ADMINISTRATION COSTS AND EXPENSES**

21 6.1 **The Settlement Administrator's Costs and Expenses.** All costs and expenses
22 due to the Settlement Administrator in connection with its administration of the Settlement
23 described in the Agreement, including, but not limited to, formatting and mailing the Settlement
24 Letter and Individual Settlement Payments, performing a National Change of Address database
25 search to update Settlement Group Members addresses prior to the mailing, performing skip-traces
26 to locate and update Settlement Group Members' addresses, calculating, and distributing Individual
27 Settlement Payments, and any other tasks requested by the Parties or by the Court, among other
28 tasks as reflected within this Agreement, will be paid through the 75% of the Gross Settlement

Amount allocated to penalties to the LWDA.

7. **FUNDING AND DISTRIBUTION**

7.1 **Funding of the Gross Settlement Amount.** The Settlement Administrator will provide Defendants with its bank wire instructions to establish the Qualified Settlement Fund (QSF).

Within 15 business days of the Effective Date, Defendants shall transmit the Gross Settlement Amount to the Settlement Administrator.

7.2 **Distribution of the Gross Settlement Amount.** No later than 21 calendar days after Defendants provide the Settlement Administrator with the Gross Settlement Amount, the Administrator will pay to Settlement Group Members, their Individual Settlement Payments via first-class regular U.S. Mail; to PAGA Counsel, the Court-awarded Attorneys' Fees and Litigation Expenses Payment; to the LWDA, the Court-approved LWDA Payment; Enhancement Awards to Plaintiffs; and to the Administrator, the Court-awarded Administration Fees and Expenses.

7.3 **Non-Cashed Settlement Checks.** Settlement Group Members shall have one hundred eighty days (180) to cash their checks. Any funds associated with uncashed checks after one hundred eighty (180) days will be sent to the Labor & Workforce Development Agency.

8. **NULLIFICATION OF THIS AGREEMENT**

8.1 **Non-Approval of the Agreement.** If (a) the Court should for any reason fail to approve this Agreement in the form agreed to by the Parties, or (b) the Court should for any reason fail to enter a judgment on this Action, or (c) the approval of the Settlement and judgment is reversed, modified or declared or rendered void, then the Settlement shall be considered null and void, and neither the Settlement nor any of the related negotiations or proceedings shall be of any force or effect, and all Parties to the Settlement shall stand in the same position, without prejudice, as if the Settlement has been neither entered into nor filed with the Court. Notwithstanding the foregoing, the Parties may attempt in good faith to cure any perceived defects in the Agreement to facilitate approval. In the event the Court awards less than the requested amounts for Administration Fees, PAGA Counsel's Attorneys' Fees and Expenses, Enhancement Awards to Plaintiffs (if any), or the PAGA Payment, the difference shall become part of the Net Settlement

1 Amount.

2 8.2 **Invalidation.** Invalidation of any material portion of the Settlement shall
3 invalidate the Settlement in its entirety, unless the Parties shall subsequently agree in writing that
4 the remaining provisions of the Settlement are to remain in full force and effect.

5 8.3 **Stay Upon Appeal.** In the event of a timely appeal from the approval of the
6 Settlement and Judgment, the Judgment shall be stayed, and Defendants shall not be obligated to
7 fund the Gross Settlement Amount or take any other actions required by this Agreement until all
8 appeal rights have been exhausted by operation of law.

9 9. **MOTION OR STIPULATION FOR COURT APPROVAL**

10 9.1 **Approval.** PAGA Counsel will submit this Agreement to the Court along with a
11 Motion or Stipulation for an Order Granting Approval of the Settlement.

12 10. **RELEASES AND WAIVERS**

13 10.1 **Settlement Group Members' Release.** Upon the Effective Date, Plaintiffs, the
14 Settlement Group Members, and the State of California vis-à-vis the LWDA, shall hereby release
15 the Released Parties for the Released Claims for the PAGA Period.

16 10.2 **Release of Claims by Plaintiffs.** Plaintiffs, each of them on behalf of himself
17 or herself and each of his or her past, present, or future aliases, agents, representatives, heirs,
18 executors, administrators, successors, beneficiaries, grantees, transferees, and assigns shall and
19 does forever release, discharge and agree to hold harmless the Released Parties from any and all
20 charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages,
21 actions, causes of action, suits, rights, demands, costs, losses, debt and expenses (including attorney
22 fees and costs), known or unknown, at law or in equity, which he or she may now have or may
23 have after the entering of this Agreement, arising out of or in any way connected with his or her
24 employment with or assignment(s) with Defendants including, the Released Claims, claims that
25 were asserted or could have been asserted in the Complaint(s), Action, and any and all transactions,
26 occurrences, or matters between the Parties. Without limiting the generality of the foregoing, this
27 release shall include, but not be limited to, any and all claims under the (a) Americans with
28 Disabilities Act, as amended; (b) Title VII of the Civil Rights Act of 1964, as amended; (c) the

1 Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended; (e) the Age Discrimination in
2 Employment Act, as amended; (f) the Fair Standards Act, as amended; (g) the Equal Pay Act; (h)
3 the Employee Retirement Income Security Act, as amended; (i) the Consolidated Omnibus Budget
4 Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the Family and Medical Leave Act; (l)
5 the Civil Rights Act of 1966; (m) the California Fair Employment and Housing Act; (n) the
6 California Constitution; (o) the California Labor Code; (p) the California Government Code; (q)
7 the California Civil Code; and (r) any and all other federal, state and local statutes, ordinances,
8 regulations, rules and other laws, and any and all claims based on constitutional, statutory, common
9 law or regulatory grounds as well as any other claims based on the theories of wrongful or
10 constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory
11 estoppel or intentional and/or negligent infliction of emotional distress, or damages under any other
12 federal, state or local statutes, ordinances, regulations, rules or laws. This release is for any and all
13 relief, no matter how denominated, including, but not limited to, overtime, wages, back pay, front
14 pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages, punitive
15 damages, damages for pain and suffering, and attorneys' fees and costs, and Plaintiffs hereby
16 forever release, discharge and agree to hold harmless Defendants and the Released Parties from any
17 and all claims for attorney fees and costs arising out of the matters released in this Agreement.
18 Plaintiffs specifically acknowledge that he or she is aware and familiar with the provisions of
19 Section 1542 of the California Civil Code, or any other similar provision under federal or state law,
20 which provides:

21 **A general release does not extend to claims which the creditor or releasing**
22 **party does not know or suspect to exist in his or her favor at the time of**
23 **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.

24 Plaintiffs, being aware of Section 1542, hereby expressly waive and relinquish all rights and
25 benefits he or she may have under Section 1542 as well as any other statutes or common law
26 principles of a similar effect. Plaintiffs may hereafter discover facts in addition to or different from
27 those which he or she now knows or believes to be true with respect to the subject matter of all the
28 claims referenced herein, but stipulates and agrees that, upon the Effective Date, Plaintiffs shall and

1 hereby do fully, and forever settle and release any and all claims against the Released Parties,
2 known or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or
3 could have been asserted upon any theory of law or equity without regard to the subsequent
4 discovery existence of such different or additional facts.

5 11. **DUTIES OF THE PARTIES**

6 11.1 **Mutual Full Cooperation.** The Parties agree to cooperate fully with one
7 another to accomplish and implement the terms of this Agreement. Such cooperation shall include,
8 but not be limited to, execution of such other documents and the taking of such other actions as
9 may reasonably be necessary to fulfill the terms of this Settlement. The Parties shall use their best
10 efforts, including all effects contemplated by this Agreement and any other efforts that may become
11 necessary by Court order or otherwise, to effectuate the terms of this Agreement. As soon as
12 practicable after execution of this Agreement, PAGA Counsel, with the cooperation of Defendants
13 and Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final
14 approval of this Agreement.

15 11.2 **Duty to Support and Defend the Settlement.** The Parties agree to abide by all
16 of the terms of the Settlement in good faith and to support the Settlement fully and to use their best
17 efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack.

18 12. **MISCELLANEOUS PROVISIONS**

19 12.1 **Different Facts.** The Parties hereto, and each of them, acknowledge that, except
20 for matters expressly represented herein, the facts in relation to the dispute and all claims released
21 by the terms of this Agreement may turn out to be other than or different from the facts now known
22 by each party and/or their counsel, or believed by such Party or counsel to be true, and each Party
23 therefore expressly assumes the risk of the existence of different or presently unknown facts, and
24 agrees that this Agreement shall be in all respects effective and binding despite such difference.

25 12.2 **No Prior Assignments.** The Parties represent, covenant, and warrant that they
26 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
27 encumber to any person or entity any portion of any liability, claim, demand, action, cause of
28 action, or right herein released and discharged except as set forth herein.

1 12.3 **Non-Admission.** Nothing in this Agreement shall be construed as or deemed to
2 be an admission by any Party of any liability, culpability, negligence, or wrongdoing toward any
3 other Party, or any other person, and the Parties specifically disclaim any culpability, negligence, or
4 wrongdoing toward each other or any other person. Each of the Parties has entered into this
5 Agreement with the intention to avoid further disputes and litigation with the attendant
6 inconvenience, expenses, and contingencies. Nothing herein shall constitute any admissions by
7 Defendants of wrongdoing or liability, or of the truth of any factual allegations in the Action.
8 Nothing herein shall constitute any admission by Defendants regarding the merits of the Claims in
9 this Action. Nothing herein shall constitute an admission by Defendants that the Action was
10 properly brought as a representative action other than for settlement purposes. To the contrary,
11 Defendants have denied and continue to deny each and every material factual allegation and all
12 Claims. To this end, the Settlement of the Action, the negotiation and execution of this Agreement,
13 and all acts performed or documents executed pursuant to or in furtherance of this Agreement or
14 the Settlement are not, shall not be deemed to be, and may not be used as, an admission or evidence
15 of any wrongdoing or liability on the part of Defendants or of the truth of any of the factual
16 allegations in the Action; and are not, shall not be deemed to be, and may not be used as, an
17 admission or evidence of any fault or omission on the part of Defendants in any civil, criminal or
18 administrative proceeding in any court, administrative agency or other tribunal.

19 12.4 **Media or Press.** Plaintiffs and Defendants, and their respective counsel, agree
20 to limit public comment on this Settlement, the Action, and claims in the Action, stating that the
21 matter has been resolved to the satisfaction of the Parties. Plaintiffs and Defendants, and their
22 respective counsel shall not initiate public comment and/or discuss with or present to the media or
23 press or otherwise publish any information about this settlement on any website or social media
24 account.

25 12.5 **Construction.** The Parties hereto agree that the terms and conditions of this
26 Agreement are the result of lengthy, intensive, arms-length non-collusive negotiations between the
27 Parties and that this Agreement is not to be construed in favor of or against any party by reason of
28 the extent to which any Party or their counsel participated in the drafting of this Agreement. If any

1 of the dates in the Agreement fall on a weekend, bank or court holiday, the time to act shall be
2 extended to the next business day.

3 12.6 **Governing Law.** This Agreement is intended to and shall be governed by the
4 laws of the State of California, without regard to conflict of law principles, in all respects,
5 including execution, interpretation, performance, and enforcement.

6 12.7 **Captions and Interpretations.** Section titles or captions contained herein are
7 inserted as a matter of convenience and for reference only and in no way define, limit, extend, or
8 describe the scope of this Agreement or any provision thereof.

9 12.8 **Modification.** This Agreement may not be changed, altered, or modified,
10 except in writing signed by the Parties, or their legal representatives, and approved by the Court.
11 This Agreement may not be discharged except by performance in accordance with its terms or by a
12 writing signed by the Parties.

13 12.9 **Integration Clause.** This Agreement contains the entire agreement between the
14 Parties relating to the Settlement of the Action and the transactions contemplated thereby, and all
15 prior or contemporaneous agreements, understandings, representations, and statements, whether
16 oral or written, and whether by a party or such party's legal counsel, are hereby superseded. No
17 rights under this Agreement may be waived except in writing as provided above.

18 12.10 **Successors and Assigns.** This Agreement shall be binding upon and inure to
19 the benefit of the Parties and Settlement Group Members and their respective present and former
20 heirs, trustees, executors, administrators, representatives, officers, directors, shareholders, agents,
21 employees, insurers, attorneys, accountants, auditors, advisors, consultants, pension and welfare
22 benefit plans, fiduciaries, parent companies, subsidiaries, affiliates, related companies, joint
23 ventures, predecessors, successors, and assigns.

24 12.11 **Corporate Signatories.** Any person executing this Agreement or any such
25 related document on behalf of a corporate signatory or on behalf of a partnership hereby warrants
26 and promises, for the benefit of all Parties hereto, that such person has been duly authorized by
27 such corporation or partnership to execute this Agreement or any such related document.

28

12.13 **Attorneys' Fees, Costs and Expenses.** Except as otherwise specifically provided for herein, each Party shall bear their or its own attorneys' fees, costs and expenses, taxable or otherwise, incurred by them in or arising out of the Action and shall not seek reimbursement thereof from any other Party to this Agreement.

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1 IN WITNESS WHEREOF, the Parties and their counsel have executed this Agreement on
2 the date below their signatures of their representatives. The date of the Agreement shall be the date
3 of the latest signature.

4
5 Dated: _____ Plaintiff Magda Castro

6
7 By: _____
8 Magda Castro

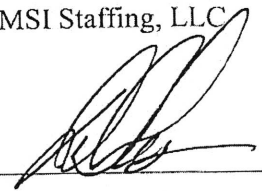
9 Dated: _____ Plaintiff Steven Diaz

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11 By: _____
12 Steven Diaz

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14 Dated: 05/16/2024 Defendant Ross Stores For Less, Inc.

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16 DocuSigned by:
17 By: Emily Sullivan
18 99F3AA0FE04445F
19 On behalf Ross Stores For Less, Inc.

20 Dated: 5-20-24 Defendant DMSI Staffing, LLC

21 By: 
22 On behalf DMSI Staffing, LLC.

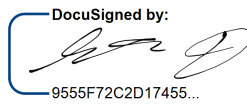
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IN WITNESS WHEREOF, the Parties and their counsel have executed this Agreement on the date below their signatures of their representatives. The date of the Agreement shall be the date of the latest signature.

Dated: _____ Plaintiff Magda Castro

By: _____
Magda Castro

Dated: 5/17/2024 Plaintiff Steven Diaz

By:  _____
Steven Diaz

Dated: _____ Defendant Ross Stores For Less, Inc.

By: _____
On behalf Ross Stores For Less, Inc.

Dated: _____ Defendant DMSI Staffing, LLC

By: _____
On behalf DMSI Staffing, LLC.

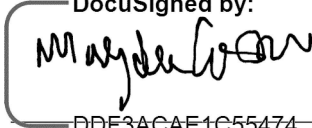
1 IN WITNESS WHEREOF, the Parties and their counsel have executed this Agreement on
2 the date below their signatures of their representatives. The date of the Agreement shall be the date
3 of the latest signature.

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5 Dated: 5/14/2024

Plaintiff Magda Castro

DocuSigned by:

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8 By:  _____
Magda Castro

9 Dated: _____

Plaintiff Steven Diaz

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12 By: _____
Steven Diaz

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14 Dated: _____

Defendant Ross Stores For Less, Inc.

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16 By: _____
17 On behalf Ross Stores For Less, Inc.

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19 Dated: _____

Defendant DMSI Staffing, LLC

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21 By: _____
22 On behalf DMSI Staffing, LLC.

1 Approved as to form:

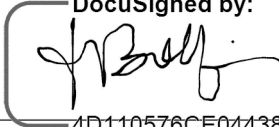
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3 Dated: 5/14/2024

MOSS BOLLINGER LLP

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DocuSigned by:
By: 
4D110576CE04438...
Dennis F. Moss
Jeremy F. Bollinger

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Attorneys for Plaintiff
Magda Castro

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9 Dated: _____

DAVID YEREMIAN & ASSOCIATES, INC.
D.LAW, INC.
HEKMAT LAW GROUP

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11

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By: _____
David Yeremian
Alvin B. Lindsay

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14

Attorneys for Plaintiff
Steven Diaz

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16 Dated: _____

WOLFLICK, KHACHATURIAN & BOUAYAD, APC

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By: _____
Gregory D. Wolflick
Attorneys for Defendants
Ross Dress For Less, Inc. and DMSI Staffing, LLC

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1 Approved as to form:

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3 Dated: _____

MOSS BOLLINGER LLP

4
5 By: _____

Dennis F. Moss
Jeremy F. Bollinger

7 Attorneys for Plaintiff
8 Magda Castro

9 Dated: 05/17/2024

DAVID YEREMIAN & ASSOCIATES, INC.
D.LAW, INC.
HEKMAT LAW GROUP

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11
12 By: _____

David Yeremian
Alvin B. Lindsay

13 Attorneys for Plaintiff
14 Steven Diaz

15 Dated: _____

WOLFLICK, KHACHATURIAN & BOUAYAD, APC

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18 By: _____

Gregory D. Wolflick
Attorneys for Defendants
Ross Dress For Less, Inc. and DMSI Staffing, LLC

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Approved as to form:

Dated: _____

MOSS BOLLINGER LLP

By: _____

Dennis F. Moss
Jeremy F. Bollinger

Attorneys for Plaintiff
Magda Castro

Dated: _____

DAVID YEREMIAN & ASSOCIATES, INC.
D.LAW, INC.
HEKMAT LAW GROUP

By: _____

David Yeremian
Alvin B. Lindsay

Attorneys for Plaintiff
Steven Diaz

Dated: 5/20/24

WOLFLICK, KHACHATURIAN & BOUAYAD, APC

By: _____

Gregory D. Wolflick

Attorneys for Defendants
Ross Dress For Less, Inc. and DMSI Staffing, LLC

EXHIBIT A

<Mailing Date>

NOTICE OF SETTLEMENT

Re: *The Enclosed Check Regarding Magda Castro et al. v. Ross Dress for Less, Inc. et al.*

Kern County Superior Court Case No. BCV-21-101490

ADMINISTRATOR ID

<Name>

<Address>

<City, State Zip>

Dear <Name>,

The enclosed payment is made to you because a Court has approved a settlement of claims for civil penalties brought by Plaintiffs Magda Castro and Steven Diaz (“Plaintiffs”) on behalf of themselves and the people of the State of California against Defendants Ross Dress For Less, Inc. and DMSI Staffing, LLC (collectively “Defendants”), pursuant to the Private Attorneys General Act of 2004 (“PAGA”) (the “Lawsuit”). The Lawsuit was based on Plaintiffs’ claim that Defendants failed to pay all wages for time spent undergoing security checks and COVID checks, failed to provide duty free meal and rest periods, failed to pay meal and rest break premiums at the regular rate of compensation, failed to pay sick leave at the regular rate of pay, failed to reimburse business expenses, failed to provide accurate wage statements, and failed to timely pay all wages upon termination of employment to their non-exempt employees who worked for Defendants at Ross Distribution Centers in California between March 18, 2019 and November 1, 2023 (the “PAGA Period”).

Ross and DMSI deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit. **The Court did not find that anyone did anything wrong, and approved the settlement as a fair and reasonable resolution of disputed claims.**

Based on the number of pay periods you worked as for Defendants at a Ross Distribution Center during the PAGA Period, your individual payment amount is <\$XX.XX>. This amount includes additional credit if (i) you worked at the CVDC during the period of August 2021 through the end of October 2021 during which it was alleged you experienced backups in the security check lines at the CVDC, (ii) you worked at the MVDC, the SWDC, or the CVDC during the period March 18, 2019 and November 8, 2020, (iii) you worked as a Loss Prevention employee who incurred mileage for drive time during the work day using your personal vehicle during the period March 18, 2019 through November 1, 2023, or (iv) your employment terminated during the period of March 18, 2019 and November 1, 2023 to cover alleged penalties pursuant to Labor Code § 203.

The enclosed check represents your portion of the settlement recovery. You are responsible for paying any federal, state, or local taxes owed as a result of this payment.

The enclosed check is valid for 180 days from the date of issuance. If you do not cash it within 180 days, the funds from uncashed checks will be remitted to the State of California’s Labor & Workforce Development Agency.

If you have any questions concerning this Settlement, you can contact ADMINISTRATOR at: 1 (XXX) XXX-XXXX. ***Please do not call the Court about this Notice.***

EXHIBIT B

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN**

MAGDA CASTRO, an individual, on behalf of
herself and all others similarly situated,

Plaintiffs,

vs.

ROSS DRESS FOR LESS, INC., and DOES 1-
50, inclusive,

Defendants.

Case No. BCV-21-101490

[Assigned for all purposes to Hon. Gregory Pulskamp]

**[PROPOSED] FINAL JUDGMENT AND ORDER
OF DISMISSAL**

Hearing Date:
Time:
Dept.:

On [REDACTED], 2024, Plaintiffs Magda Castro's and Steven Diaz's motion for approval of the Settlement Agreement between the above-captioned parties came on regularly for hearing pursuant to the California Private Attorneys General Act, Labor Code section 2699, *et seq.* ("PAGA"). Appearances were as stated in the record. Having considered the motion, the Settlement Agreement, all supporting documents, and the arguments of counsel, and GOOD CAUSE having been shown, Plaintiffs' motion is GRANTED.

NOW THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED:

The Court hereby approves the parties' proposed Joint Stipulation of Settlement and Release of PAGA Action ("Settlement Agreement"), attached as Exhibit 1 to the Declaration of Jeremy F. Bollinger, entered into between Plaintiffs as individuals and on behalf of the State of California and as "aggrieved employees" acting as private attorney general under PAGA, on the one hand, and Defendants Ross Dress For Less, Inc. and DMSI Staffing, LLC (collectively, "Defendants") on the other, as follows:

1. All capitalized terms used here and not otherwise defined shall have the same meaning as given in the Settlement Agreement.

2. The Court has jurisdiction over the subject matter of this action, all PAGA Members, the State of California, and Defendants.

3. The Court finds and determines that the parties have satisfied the requirements of Section 2699(I)(2) of PAGA, by submitting the Settlement Agreement to the Labor Workforce and Development Agency ("LWDA").

4. The Court APPROVES the parties' Settlement Agreement adjudging the terms thereof to be fair, reasonable, and adequate and directing consummation of its terms and provisions.

5. The Court APPROVES the Notice of Settlement (referred to as "Settlement Letter"), attached as Exhibit A to the Settlement Agreement, as to form and content, and directs the Settlement Administrator to distribute it along with the Settlement shares to the PAGA Members pursuant to the terms of the Settlement Agreement.

6. The Court APPROVES the parties' Settlement Agreement in favor of Plaintiffs and the PAGA Members in the Gross Settlement Amount of \$2,492,440.

7. The Court APPROVES and APPOINTS Phoenix Settlement Administrators to administer the Settlement.

8. The Court APPROVES and ORDERS that, of the Gross Settlement Amount, twenty-five percent (or \$623,110) is to be distributed to the PAGA Members and seventy-five percent shall be allocated to the LWDA pursuant to Section 2699(i) of PAGA. The Court further APPROVES and ORDERS that from the seventy-five percent allocated to the LWDA, \$872,354 is awarded as attorneys' fees paid to Plaintiffs' Counsel Moss Bollinger, LLP, David Yeremian & Associates, Inc., D.Law, Inc., Hekmat Law Group, \$18,845.53 is awarded as litigation costs paid to Plaintiffs' Counsel, \$10,000 is awarded to the PAGA Representative/Plaintiff Magda Castro and 10,000 is awarded to the PAGA Representative/Plaintiff Steven Diaz as Enhancement Payments, and \$49,750 is awarded as administrative costs paid to the Settlement Administrator. The remaining amount of \$908,380.47 is to be distributed to the LWDA.

9. Pursuant to section 7.3 of the Settlement Agreement, any funds associated with uncashed checks after one hundred eighty (180) calendar days will be sent to the Labor & Workforce Development Agency.

10. The Lawsuit is hereby DISMISSED WITH PREJUDICE and without costs to any party, other than as specified in the Settlement Agreement and this Order.

11. In consideration of the Gross Settlement Amount provided under the Settlement Agreement, and for other good and valuable consideration, each of the PAGA Member and the State of California shall, by operation of this Judgment, irrevocably release, acquit, and forever discharge Defendants and the Released Parties, as defined in the Settlement Agreement, of all claims and theories that were set forth, or that could have been set forth based on the facts alleged in the Action during the PAGA Period, including but not limited to under the California Labor Code 201-203 (including 201.3), 204, 210, 218, 218.6, 221, 225.5, 226, 226.3, 226.7, 245, 246, 256, 432.5, 510, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1175, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 2810.5, 2698 *et seq.*, and IWC Wage Order 7-2001, based on Defendants' alleged failure to pay wages for all hours worked during the time spent undergoing security checks and COVID checks, failure to provide duty free meal and rest periods, failure to pay meal and rest break premiums at the regular rate of compensation, failure

1 to pay sick leave at the regular rate of pay, and derivative liability for failure to provide accurate wage
2 statements, and failure to timely pay all wages upon cessation of employment, and derivative liability
3 theories for failure to provide accurate wage statements and failure to timely pay all wages upon
4 cessation of employment to employees at Defendants' distribution centers in California (collectively
5 "Released Claims").

6 12. As a result of this Judgment, the PAGA Representatives/Plaintiffs, the State of California,
7 and all PAGA Members are barred from prosecuting any claims covered by the release set forth in the
8 Settlement Agreement against Defendants and the Released Parties.

9 13. This Judgment is the Final Judgment in the suit as to all Released Claims.

10 14. In the event that the Settlement Effective Date does not occur, this Judgment shall be
11 rendered null and void and shall be vacated, *nunc pro tunc*, except insofar as expressly provided to the
12 contrary in the Agreement, and without prejudice to the *status quo ante* rights of Plaintiffs, PAGA
13 Members, the State of California, and Defendants.

14 **IT IS SO ORDERED.**

15
16 Dated: _____, 2024

Hon. Gregory Pulskamp, Judge of the Superior Court