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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

HECTOR IRAHETA, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

v.

LEGACY FRAMERS, INC., a California
corporation; CEMCON, INC., a California
corporation; DAVID J. GUTRIDGE, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: MSC21-00762

[Assigned for all purposes to the Hon. Edward
G. Weil, in Dept. 39]

**JOINT STIPULATION RE:
REPRESENTATIVE ACTION
SETTLEMENT**

ACTION FILED: April 19, 2021
TRIAL DATE: None Set

This Joint Stipulation Re: Representative Action Settlement (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between plaintiffs HECTOR IRAHETA (“Plaintiff Iraheta”) and JOHN ANTHONY VASQUEZ (“Plaintiff Vasquez” and with Plaintiff Iraheta, “Plaintiffs”), as individual aggrieved employees, and on behalf of all other aggrieved employees, on one hand; and defendants LEGACY FRAMERS, INC. (“Defendant Legacy Framers”) and DAVID J. GUTRIDGE (“Defendant Gutridge” and with Defendant Legacy Framers, “Defendants”), on the other hand, in the lawsuit entitled *Hector Iraheta and John Anthony Vasquez v. Legacy Framers, Inc. et al.*, filed in Contra Costa County Superior Court, Case No. MSC21-00762 (the “Action”). Plaintiffs and Defendants shall be, at times, collectively referred to as the “Parties”. This Agreement is intended by the Parties to fully, finally and forever resolve the claims as set forth herein, based upon and subject to the terms and conditions of this Agreement.

I. DEFINITIONS

A. “**Action**” means the action entitled *Hector Iraheta and John Anthony Vasquez v. Legacy Framers, Inc. et al.*, filed in Contra Costa Superior Court, Case No. MSC21-00762.

B. **“Agreement,” “Settlement” or “Settlement Agreement”** means this Joint Stipulation Re: Representative Action Settlement, and its exhibits, attached hereto and incorporated herein, including all subsequent amendments agreed to in writing by the Parties and any exhibits to such amendments.

C. **“Aggrieved Employee(s)”** means all non-exempt employees of Defendants working in California during the PAGA Period, including employees paid hourly and by piece rate.

D. **“Aggrieved Employees List”** means a complete list of all Aggrieved Employees that Defendants will diligently and in good faith compile from its records and provide to the Settlement Administrator within seven (7) calendar days after the Effective Date. The Aggrieved Employees List will include each Aggrieved Employee’s: a) full name; b) last known address; c) last known telephone number; d) Social Security Number; and e) pay periods worked by each Aggrieved Employee.

1 E. **“Court”** means the Superior Court of the State of California for the County of
2 Contra Costa.

3 F. **“Defendants”** means, collectively, Legacy Framers, Inc., and David J. Gutridge.

4 G. **“Effective Date”** means the later of: (a) the date the Court signs an Order granting
5 approval of this Settlement and Judgment; (b) if any objections or motions to intervene are filed
6 prior to the date the Court signs an Order granting approval of this Settlement, sixty (60) days
7 from the later of the date the Court signs an order granting approval of the Settlement or the date
8 the Court enters final judgment so long as no appeal is filed within that time frame; and (c) to
9 the extent any appeals have been filed, the date on which they have been resolved or exhausted.

10 H. **“Gross Settlement Sum”** means a non-reversionary fund in the sum of One
11 Million Fifty Thousand Dollars and Zero Cents (\$1,050,000.00), as the same may be escalated
12 pursuant to Paragraph IV(L)(2) of this Agreement, which Defendants shall pay to resolve the
13 Action. The Gross Settlement Sum includes: (a) payment to the LWDA; (b) all Individual
14 Settlement Payments to Aggrieved Employees; (c) Plaintiffs’ Enhancement Payments (c)
15 Plaintiffs’ Counsel’s Attorneys’ Fees and Plaintiffs’ Counsel’s Attorneys’ Costs; and (d)
16 Settlement Administration Costs.

17 I. **“Individual Settlement Payment(s)”** means the *pro rata* amount payable to each
18 Aggrieved Employee from the 25% portion of the Net Settlement Amount allocated to payments
19 to the Aggrieved Employees.

20 J. **“LWDA”** means the California Labor and Workforce Development Agency.

21 K. **“Net Settlement Amount”** means the total amount of money that will be paid to
22 the LWDA and the Aggrieved Employees collectively, out of the Gross Settlement Sum, after
23 deductions from the Gross Settlement Sum, if approved by the Court, for: (a) Settlement
24 Administration Costs; (b) Plaintiffs’ Counsel’s Attorneys’ Fees; (c) Plaintiffs’ Counsel’s
25 Attorneys’ Costs; and (d) Plaintiffs’ Enhancement Payment.

26 ///

27 L. **“Operative Complaint”** means the Second Amended Complaint that was filed
28 with the Court on October 6, 2021.

1 M. **“PAGA”** means the Private Attorneys General Act of 2004 as codified in
2 California Labor Code section 2698, *et seq.*

3 N. **“PAGA Payment Letter”** means a letter that the Settlement Administrator will
4 send to each Aggrieved Employee with his or her Individual Settlement Payment, which explains
5 the reason for the Individual Settlement Payment, substantially in the form attached hereto as
6 Exhibit 1, excluding any revisions by the Court.

7 O. **“PAGA Period”** or **“Settlement Period”** means the period from April 20, 2020
8 through October 3, 2022.

9 P. **“Pay Period”** means a pay period worked by an Aggrieved Employee employed
10 by Defendants in a non-exempt position during the PAGA Period, including employees paid
11 hourly and by piece rate, based on pay checks issued to Aggrieved Employees.

12 Q. **“Parties”** means, collectively, Plaintiffs and Defendants.

13 R. **“Plaintiffs”** or **“Named Plaintiffs”** shall refer to Hector Iraheta and John
14 Anthony Vasquez.

15 S. **“Plaintiffs’ Counsel”** means David D. Bibiyan and Jeffrey D. Klein of Bibiyan
16 Law Group, P.C.

17 T. **“Plaintiffs’ Counsel’s Attorneys’ Costs”** means the amount not to exceed
18 Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), according to proof and subject to
19 approval by the Court. Plaintiffs’ Counsel’s Attorneys’ costs will be paid from, and not in
20 addition to, the Gross Settlement Sum. The amount of Plaintiffs’ Counsel’s Attorneys’ Costs
21 shall include all past and future attorneys’ costs to Plaintiffs’ Counsel—including, without
22 limitation, all costs expended by Plaintiffs’ Counsel in defending the Settlement and securing
23 approval of the Settlement (including any appeals) unless, in the event of a material breach of
24 this Agreement by Defendants, Plaintiffs are required to move the Court for enforcement of this
25 Agreement. Should the Court approve Plaintiffs’ Counsel’s Attorneys’ Fees and Plaintiffs’
26 Counsel’s Attorneys’ Costs in an amount less than the amounts provided herein, then the
27 unapproved portion(s) shall be a part of the Net Settlement Amount. Defendants will not oppose
28 an award of attorneys’ costs.

1 U. **“Plaintiffs’ Counsel’s Attorneys’ Fees”** means the amount not to exceed thirty-
2 five percent (35%) of the Gross Settlement Sum or Three Hundred Sixty-Seven Thousand Five
3 Hundred Dollars and Zero Cent (\$367,500.00), subject to escalation pursuant to Paragraph
4 IV(L)(2) of this Agreement and approval by the Court. Plaintiffs’ Counsel’s Attorneys’ Fees will
5 be paid from, and not in addition to, the Gross Settlement Amount. The amount of Plaintiffs’
6 Counsel’s Attorneys’ Fees shall include all past and future attorneys’ fees to Plaintiffs’
7 Counsel—including, without limitation, all time expended by Plaintiffs’ Counsel in defending
8 the Settlement and securing approval of the Settlement (including any appeals) unless, in the
9 event of a material breach of this Agreement by Defendants, Plaintiffs are required to move the
10 Court for enforcement of this Agreement. Should the Court approve Plaintiffs’ Counsel’s
11 Attorneys’ Fees in an amount less than the amounts provided herein, then the unapproved
12 portion(s) shall be a part of the Net Settlement Amount. Defendants will not oppose an award
13 of attorneys’ fees.

14 V. **Plaintiffs’ Enhancement Payments** means the monetary amounts to be paid to
15 Plaintiffs of up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) each, for
16 a total of up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00), which, subject to Court
17 approval, will be paid out of the Gross Settlement Sum.

18 W. **“Released Parties”** shall refer to Defendants as well as their predecessors,
19 merged entities, parents, subsidiaries, affiliates, related organizations, all of their respective
20 officers, directors, employees, administrators, fiduciaries, trustees, beneficiaries, and agents, and
21 each of their past, present, and future officers, directors, shareholders, employees, administrators,
22 fiduciaries, trustees, beneficiaries, agents, principals, heirs, representatives, accountants,
23 attorneys, auditors, consultants, insurers, and reinsurers.

24 X. **“Settlement Administration Costs”** means the costs payable from the Gross
25 Settlement Amount to the Settlement Administrator for administering this Settlement. All
26 Settlement Administration Costs shall be paid from, and not in addition to, the Gross Settlement
27 Sum. The Settlement Administration Costs include, but are not limited to, the required tax
28 reporting on the Individual Settlement Payments, the issuing of appropriate tax forms, as needed,

1 confirming/auditing claims for payments for compliance with the Settlement, calculating and
2 distributing all payments to be made pursuant to the Settlement, and providing reports and
3 declarations. The Settlement Administration Costs are currently estimated to be no more than
4 \$11,500.00. If the actual amount of the Settlement Administration Costs is less than \$11,500.00
5 the difference between \$11,500.00 and the actual Settlement Administration Costs shall be a part
6 of the Net Settlement Amount. If the Settlement Administration Costs exceed \$11,500.00, then
7 such excess will be paid solely from the Gross Settlement Sum and Defendants will not be
8 responsible for paying any additional funds in order to pay these additional costs.

9 Y. **“Settlement Administrator”** means the Third-Party Administrator mutually
10 agreed upon by the Parties and approved by the Court that will be responsible for the
11 administration of the Settlement. The Parties will obtain a not-to-exceed quote from the mutually
12 acceptable qualified settlement administrator for claims administration costs. The Settlement
13 Administrator agreed upon by all parties is ILYM Group, Inc.

14 **II. BACKGROUND**

15 A. **The Action.** On April 19, 2021, Plaintiff Iraheta filed a putative wage and hour
16 class action alleging that Defendants: (1) failed to pay overtime wages; (2) failed to pay
17 minimum wages; (3) failed to provide meal periods or compensation in lieu thereof; (4) failed to
18 provide rest periods or compensation in lieu thereof; (5) failed to timely pay wages; (6) failed to
19 issue accurate and compliant wage statements; (7) failed to pay all wages due upon separation
20 from employment; (6) failed to issue accurate and compliant wage statements; (7) failed to
21 reimburse employees for business expenses; and (8) engaged in unfair competition in violation
22 of California Business & Profession Code § 17200.

23 On April 20, 2021, Plaintiff Iraheta filed with the LWDA and served on Defendants a
24 notice under Labor Code section 2699.3 stating Plaintiff Iraheta intended to serve as a proxy of
25 the LWDA to recover civil penalties on behalf of Aggrieved Employees for various Labor Code
26 violations. (“PAGA Notice”).

27 On May 6, 2021, Plaintiff Iraheta filed a First Amended Complaint, adding Plaintiff
28 Vasquez as a named plaintiff in the Action.

1 On October 6, 2021, after sixty-five (65) days had passed since Plaintiff Iraheta filed the
2 PAGA Notice, without any action by the LWDA with respect to the alleged Labor Code
3 violations alleged in the PAGA Notice, Plaintiffs filed a Second Amended Complaint (the
4 “Operative Complaint”) in the Action seeking PAGA civil penalties against Defendants for the
5 Labor Code violations alleged in the PAGA Notice.

6 **B. Informal Discovery.** Thereafter, the Parties agreed to exchange informal
7 discovery and attend an early mediation to resolve the Plaintiffs’ representative claims, in which
8 Plaintiffs were provided with, among other things: (1) time and payroll records for 10% of the
9 estimated 1,024 Aggrieved Employees during the period from April 20, 2020 through the date
10 of mediation; (2) class data points, including number of Pay Periods during the PAGA Period,
11 the number of Aggrieved Employees (current and former), and number of Pay Periods in the
12 wage statement period; (3) two employee handbooks reflecting Defendant’s policies in effect
13 during the PAGA Period; (4) personal employment files maintained by Defendants for plaintiffs
14 Iraheta and Vasquez; and (5) sample time card records for Plaintiff Iraheta ranging from August
15 of 2020 through July of 2021.

16 **C. Mediation.** On August 2, 2022, the Parties participated in a full-day mediation
17 before Jeffrey A. Ross, Esquire, a well-regarded mediator experienced in mediating complex
18 labor and employment matters. With the aid of the mediator’s evaluation, the Parties reached
19 the Settlement to resolve the representative claims in the Action.

20 **D. Plaintiff’s Position as to Settlement.** Plaintiffs’ Counsel has conducted
21 significant investigation of the law and facts relating to the claims asserted in the Action, the
22 PAGA Notice and the Operative Complaint, and have concluded that the Settlement set forth
23 herein is fair, reasonable, adequate and in the best interests of the Aggrieved Employees, taking
24 into account the sharply contested issues involved, the expense and time necessary to litigate the
25 Action through trial and any appeals, the risks and costs of further litigation of the Action, the
26 risk of an adverse outcome, the uncertainties of complex litigation, the information learned
27 through informal discovery regarding Plaintiffs’ allegations and the substantial benefits to be
28 received by Aggrieved Employees.

1 E. **Defendants' Position as to Settlement.** Defendants have concluded that,
2 because of the substantial expense of defending against the Action, the length of time necessary
3 to resolve the issues presented herein, the inconvenience involved, and the concomitant
4 disruption to its business operations, it is in its best interest to accept the terms of this Agreement.
5 Defendants deny each of the allegations and claims asserted against it in the Action, the PAGA
6 Notice, and the Operative Complaint. However, Defendants nevertheless desire to settle the
7 Action for the purpose of avoiding the burden, expense and uncertainty of continuing litigation
8 and for the purpose of putting to rest the controversies engendered by the Action.

9 F. **Agreement.** The Parties' Settlement Agreement contemplates the (a) entry of an
10 order by the Court approving the payment allocated for resolution of claims under PAGA; (b)
11 dismissal of the Action with prejudice as to class claims; and (c) all parties bearing their
12 respective fees and costs except as expressly provided in this Settlement Agreement.

13 **III. TERMS OF SETTLEMENT**

14 A. **All Terms Subject to Court Approval.** The Court has jurisdiction over the
15 Parties and the subject matter of the Action. The Action includes claims that, if proven, would
16 authorize the Court to grant relief pursuant to the applicable statutes. This Agreement shall be
17 submitted to the Court for approval and final judgment. The Parties agree that upon the
18 occurrence of the dismissal of this case pursuant to the terms of this Agreement, this Settlement
19 Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure Section 664.6
20 and the Court shall retain exclusive and continuing equity jurisdiction of this Action over all
21 Parties and Aggrieved Employees to interpret and enforce the terms, conditions and obligation
22 of the Settlement Agreement. Should the Court not grant approval of the Settlement as described
23 in this Settlement Agreement, then the entirety of this Settlement Agreement shall be null and
24 void. Notwithstanding the foregoing, the Parties agree to meet and confer to address any Court
25 concerns regarding the Settlement, including the filing of any supplemental briefs, amended
26 settlement agreement(s), or other documents mutually acceptable by the Parties and their
27 counsel.
28

1 B. **Gross Settlement Sum.** Defendants shall pay the Gross Settlement Sum of One
2 Million Fifty Thousand Dollars and Zero Cents (\$1,050,000.00) to settle this Action, unless
3 escalated pursuant to Paragraph III(L)(2) of this Settlement Agreement. The Gross Settlement
4 Sum will be to satisfy all of Defendants' liabilities arising from the Settlement. No portion of
5 the Gross Settlement Sum shall revert to Defendants.

6 C. **Plaintiffs' Counsel's Attorneys' Fees and Costs.** Plaintiffs' Counsel shall apply
7 for, and Defendants shall not oppose, an award of Plaintiffs' Counsel's Attorneys' Fees and
8 Plaintiffs' Counsel's Attorneys' Costs, as described and defined in this Agreement. Awards of
9 Plaintiffs' Counsel's Attorneys' Fees and Plaintiffs' Counsel's Attorneys' Costs shall be paid
10 out of the Gross Settlement Sum, for all past and future attorneys' fees and costs necessary to
11 prosecute, settle and obtain approval of this Settlement. There will be no additional charge of
12 any kind to Aggrieved Employees or request for additional consideration from Defendants for
13 such work unless, Defendants materially breach this Agreement, including any term regarding
14 funding, and further efforts are necessary from Class Counsel to remedy said breach, including,
15 without limitation, moving the Court to enforce the Agreement. Should the Court approve
16 Plaintiffs' Counsel's Attorneys' Fees and Plaintiffs' Counsel's Attorneys' Costs in an amount
17 less than the amounts provided herein, then the unapproved portion(s) shall be a part of the Net
18 Settlement Amount.

19 D. **Plaintiffs' Enhancement Payment.** Plaintiffs will request and apply for the
20 Enhancement Payment referred in Paragraph I(V) of this Agreement in exchange for general
21 releases referred to in Paragraph II(J)4-5. Specifically, Plaintiffs will apply for a payment of up
22 to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) each to Plaintiff Iraheta
23 and Plaintiff Vasquez, for a total of up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00)
24 to Plaintiffs. The Enhancement Payment shall be paid from, and not in addition to, the Gross
25 Settlement Amount. Any amounts not awarded by the Court under this provision shall be
26 included in the Net Settlement Amount. Defendants agree not to oppose any such application
27 which is consistent with this paragraph.
28

1 E. **LWDA Payment.** Subject to Court approval, the Parties agree that an amount
2 equal to seventy-five percent (75%) of the Net Settlement Amount will be paid to the LWDA in
3 settlement of all representative claims alleged by or on behalf of Plaintiffs and the Aggrieved
4 Employees. Should the Court grant Plaintiffs' Counsel's Attorneys' Fees and Plaintiffs'
5 Counsel's Attorneys' Costs, and Settlement Administration Costs, and should the Settlement not
6 be escalated pursuant to section IV(L)(2) of this Agreement, the amount paid to the LWDA will
7 be \$466,500 (75%) and \$155,500 (25%) of the Net Settlement Amount will be available for
8 Individual Settlement Payments to Aggrieved Employees.

9 F. **Individual Settlement Payments.** Subject to Court approval, the Parties agree
10 that an amount equal to twenty-five percent (25%) of the Net Settlement Amount (the
11 "Aggrieved Employee Portion") will be paid to the Aggrieved Employees in settlement of the
12 PAGA Released Claims. Individual Settlement Payments will be calculated and apportioned
13 from the Aggrieved Employee Portion based on the number of Pay Periods an Aggrieved
14 Employee worked during the Settlement Period. The Settlement Administrator will determine
15 the total number of Pay Periods worked by each Aggrieved Employee during the Settlement
16 Period based on the data provided by Defendants in the Aggrieved Employee List and the
17 aggregate number of Pay Periods worked by all Aggrieved Employees during the Settlement
18 Period.

19 1) To determine each Aggrieved Employee's Individual Settlement
20 Payment, the Settlement Administrator will use the following formula: Individual Settlement
21 Payment = (Aggrieved Employee's Pay Periods during the Settlement Period / Aggregate
22 Number of Aggrieved Employees' Pay Periods during the Settlement Period) x (0.25 x Net
23 Settlement Amount).

24 2) Defendants agree this formula is reasonable and that the payments are
25 designed to provide a fair settlement to each Aggrieved Employee in light of the uncertainties
26 regarding the penalties alleged to be owed and the calculation of such amounts.

27 G. **Tax Treatment of Settlement Payments.** All Individual Settlement Payments
28 will be characterized as civil penalties, and IRS Forms 1099-MISC will be issued as necessary.

1 The payment of Plaintiffs' Counsel's Attorneys' Fees and Plaintiffs' Counsel's Attorneys' Costs
2 will also be reported on IRS Forms 1099-MISC. The Settlement Administrator will issue all
3 such forms.

4 H. **Aggrieved Employees' Tax Liability.** Other than the reporting requirements set
5 forth in this Agreement, the Aggrieved Employees shall be responsible for the reporting and
6 payment of any federal, state, and/or local income or other tax or any other withholdings, if any,
7 on any of the payments made pursuant to this Agreement. Counsel for Plaintiffs and Defendants
8 make no representations, and it is understood and agreed that Counsel for Plaintiffs and
9 Defendants have made no representations, as to the taxability of any portions of the Individual
10 Settlement Payments to any Aggrieved Employee, the payment of any costs or an award of
11 attorney fees, or any payments to Plaintiffs. The PAGA Payment Letter (Exhibit A) will inform
12 Aggrieved Employees of the opportunity to seek their own tax advice in connection with their
13 receipt of Individual Settlement Payments.

14 I. **Defendants' Tax Liability.** The Parties do not expect there to be any employer
15 side taxes arising from this Settlement because this a settlement of a representative action for
16 civil penalties. If it is determined that employer side taxes exist on the Gross Settlement Sum,
17 such taxes will be funded by the Gross Settlement Sum.

18 J. **Waivers and Releases**

19 1) **PAGA Released Claims.** Effective only upon the entry of an Order
20 granting Final Approval of the Settlement, entry of Judgment, and payment by Defendants to the
21 Settlement Administrator of the full Gross Settlement Amount necessary to effectuate the
22 Settlement, Plaintiffs and all Aggrieved Employees release all claims for PAGA civil penalties
23 against the Released Parties asserted in the PAGA Notice and alleged in the Operative Complaint
24 filed in the Action, or any and all claims that may be asserted against the Released Parties based
25 on the factual allegations in the PAGA Notice and the Operative Complaint, as follows: For the
26 duration of the PAGA Period, the release includes, for Aggrieved Employees: (1) all claims for
27 failure to pay employees for all overtime wages owed (Labor Code §§ 510, 558, 558.1, 1194,
28 1199); (2) all claims for failure to compensate employees with minimum wages for all hours

1 worked (Labor Code §§ 226.2, 558, 558.1, 1194, 1194.2, 1197, 1199, 1197.1); (3) all claims for
2 failure to provide compliant meal breaks or compensation in lieu thereof (Labor Code §§ 226.7,
3 512); (4) all claims for failure to authorize or permit employees to take compliant rest breaks or
4 provide compensation in lieu thereof (Labor Code §§ 226.2, 226.7); (5) all claims for failure to
5 timely pay all compensation owed to terminated and/or resigned employees (Labor Code §§ 201,
6 202, 203); (6) all claims for failure to provide employees with accurate itemized wage statements
7 (Labor Code §§ 226, 226.2, 226.3); (7) all claims for failure to timely pay wages during
8 employment (Labor Code §§ 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5); (8) all claims
9 for failure to reimburse business expenses (Labor Code § 2802); (9) all claims for failure to
10 comply with the requirements of the Wage Theft Protection Act of 2011 (Labor Code § 2810.5);
11 (10) all claims for failure to maintain accurate time records (Labor Code §§ 226, 1174); (11) all
12 claims for all other statutory violations alleged by Plaintiffs, including violations of Labor Code
13 96, 98.6, 200, 210, 232, 232.2, 246, 432, 1102.5, 1174.5, 1194, 1197, 1197.5, 1198.5 (“PAGA
14 Released Claims”).

15 2) Exclusions to the PAGA Released Claims. The releases above expressly
16 exclude all other claims, including claims for vested benefits, wrongful termination,
17 unemployment insurance, disability, social security, workers’ compensation, individual wage
18 and hour claims, and any other claims outside of the PAGA Released Claims of Aggrieved
19 Employees (and, to the extent permitted by law, the State of California) arising outside of the
20 PAGA Period.

21 3) Aggrieved Employees are bound by the Settlement. Because the Action
22 is pursuant to PAGA, the Parties agree that no Aggrieved Employee has the right to exclude
23 themselves from the Settlement. All Aggrieved Employees will be bound by this Settlement
24 Agreement, upon its approval by the Court, regardless of whether they negotiate their settlement
25 check. The Parties agree that there is no statutory right for any Aggrieved Employee to object,
26 opt out, or otherwise exclude himself or herself from the Settlement Agreement. Except as
27 otherwise stated, Plaintiffs will vigorously defend against any attempt by any Aggrieved
28 Employee or by any entity or agency to intervene in this matter or object to/opt-out of this

1 settlement. The Parties further agree that there is no right or opportunity for any Aggrieved
2 Employee to appeal the approval of the Settlement Agreement by the Court. The Parties will
3 jointly defend against any appeal filed with respect to the Court Order approving the Settlement
4 Agreement.

5 4) Plaintiffs' Release. Plaintiffs and their respective former and present
6 spouses, representatives, agents, attorneys (including Plaintiffs' Counsel), heirs, administrators,
7 successors, and assigns generally, release and discharge Released Parties from all claims,
8 transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably
9 could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA
10 Notice ("Plaintiffs' Release"). Plaintiff's Release does not extend to any claims or actions to
11 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
12 benefits, social security benefits, workers' compensation benefits that arose at any time, or based
13 on occurrences outside the PAGA Period. Plaintiffs acknowledge that Plaintiffs may discover
14 facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe
15 to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all
16 respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

17 5) Plaintiffs' Waiver of Rights Under California Civil Code Section 1542.
18 For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions,
19 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

20 **A general release does not extend to claims that the creditor or**
21 **releasing party does not know or suspect to exist in his or her favor at**
22 **the time of executing the release, and that if known by him or her would**
23 **have materially affected his or her settlement with the debtor or**
24 **Released Party.**

25 6) Waiver of Right to Appeal. Provided the Judgment is consistent with the
26 terms and conditions of this Agreement, specifically including the Plaintiffs' Counsel's
27 Attorneys' Fees and Plaintiffs' Counsel's Attorneys' Costs, the Parties, their respective counsel
28 waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate
proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary

writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

K. **Dismissal of Cemcon, Inc.** This Agreement is expressly conditioned upon actual dismissal by the Court of Defendant Cemcon, Inc. from the Action. In order to effectuate dismissal of Cemcon, Inc., Plaintiffs or Plaintiffs' Counsel will file a request for dismissal without prejudice of the entire Action as to Cemcon, Inc. no later than concurrently with their motion for approval of PAGA settlement. The Parties shall also cooperate fully, completely and promptly signing such documents, stipulations or requests as the Court deems necessary or appropriate to secure the total and complete dismissal without prejudice of the entire Action as to Cemcon, Inc. **No consideration herein, whether direct or indirect, is being offered or paid for the dismissal Cemcon, Inc.**

L. **Dismissal of Class Claims.** This Agreement is expressly conditioned upon actual dismissal by the Court of all class claims alleged in the Action. In order to effectuate dismissal of the class claims, Plaintiffs or Plaintiffs' Counsel will file a request for dismissal pursuant to California Rule of Court 3.770 without prejudice no later than concurrently with their motion for approval of PAGA settlement. The Parties shall also cooperate fully, completely and promptly signing such documents, stipulations or requests as the Court deems necessary or appropriate to secure the total and complete dismissal of the class claims, without prejudice. **No consideration herein, whether direct or indirect, is being offered or paid for the dismissal of the class claims alleged in the Action in any way.**

M. **Settlement Administration**

1) **Settlement Administrator's Duties in General.** The Settlement Administrator shall be responsible for: (a) processing the data provided by Defendants to be used in calculating the Individual Settlement Payments; (b) preparing, printing and mailing to the Aggrieved Employees the PAGA Payment Letter (attached hereto as Exhibit 1), as well as

1 following up with reasonable skip tracing; (c) calculating and mailing Individual Settlement
2 Payments to Aggrieved Employees; (d) filing any required federal and state tax forms and related
3 agency reporting; (e) filing any required reports with the Court; and (g) all other tasks described
4 in this Agreement, as to which the Parties mutually agree, and/or which the Court orders the
5 Settlement Administrator to perform.

6 2) Delivery of the Aggrieved Employees List. Within seven (7) calendar
7 days after the Effective Date, Defendants will provide the Aggrieved Employees List to the
8 Settlement Administrator, which will be maintained as confidential by the Settlement
9 Administrator and will not be provided to Plaintiffs' Counsel.

10 3) Funding of the Gross Settlement Sum. Within ten (10) business days after
11 the Effective Date or the Settlement Administrator providing wire instructions to Defendants,
12 whichever is later, Defendants will deposit the Gross Settlement Amount into a settlement fund
13 established by the Settlement Administrator.

14 7) Distribution of Settlement Payments. Within seven (7) calendar days after
15 Defendants deposits the Gross Settlement Amount into a settlement fund, the Settlement
16 Administrator will issue payments to: (a) the Aggrieved Employees for the Individual Settlement
17 Payments; (b) the LWDA; (c) the Plaintiffs for the Plaintiffs' Enhancement Payments; and (d)
18 Plaintiffs' Counsel for the Attorneys' Fees payment and Plaintiffs' Counsel's Attorneys' Costs
19 payment. The Settlement Administrator will mail Individual Settlement Payments to the
20 Aggrieved Employees, along with the PAGA Payment Letter (attached as Exhibit 1), via regular
21 First-Class U.S. Mail, using the most current, known mailing addresses identified in the
22 Aggrieved Employees List. The Settlement Administrator will also issue a payment to itself for
23 Court-approved services performed in connection with the Settlement twenty (20) calendar days
24 after the Effective Date.

25 8) Reports Regarding Settlement Administration. The Settlement
26 Administrator will provide Defendants' Counsel and Plaintiffs' Counsel reports regarding the
27 administration of the Settlement Agreement as needed or requested.
28

1 9) Procedures for Uncashed Checks. Individual Settlement Payment
2 checks shall remain valid and negotiable for one hundred and eighty (180) calendar days after
3 the date of their issuance. Within seven (7) calendar days after expiration of the 180-day
4 period, checks for such payments shall be canceled and funds associated with such checks shall
5 be considered unpaid, unclaimed or abandoned cash residue pursuant to Code of Civil
6 Procedure section 384 (“Unpaid Residue”). As soon as practicable thereafter, the Unpaid
7 Residue plus accrued interest, if any, as provided in Code of Civil Procedure section 384, shall
8 be transmitted to Legal Aid at Work, located at 180 Montgomery Street, Suite 600, San
9 Francisco, California 94104, the *cy pres* recipient, for use in Contra Costa County. The
10 Settlement Administrator shall prepare a report regarding the distribution plan pursuant to
11 Code of Civil Procedure section 384 and the report shall be presented to the Court by Class
12 Counsel along with a proposed amended judgment that is consistent with the provisions of
13 Code of Civil Procedure section 384.

14 10) Notice to LWDA. Before or concurrent with Plaintiffs’ filing of this
15 Agreement for approval, Plaintiffs’ Counsel will send this agreement to the LWDA pursuant to
16 Section 2699(1)(2) of the California Labor Code. Plaintiff or Plaintiff’s Counsel will also file a
17 declaration in support of the motion for Settlement Approval confirming that she has submitted
18 the Settlement to the LWDA in compliance with Labor Code § 2699(1). Upon entry of judgment
19 by the Court, Plaintiff’s Counsel shall submit a copy of the judgment to the LWDA, and provide
20 proof of said submission to counsel for Defendant.

21 1) Declaration of Payment. Within sixty (60) calendar days after the
22 Effective Date, the Settlement Administrator shall prepare a declaration of payment stating that
23 all payments required under the Settlement have been made. Plaintiffs’ Counsel shall file the
24 Settlement Administrator’s declaration with the Court if requested by the Court.

25 2) Declaration Regarding Uncashed Settlement Check Funds. Within ten
26 (10) calendar days after the date the Settlement Administrator transfers the total amount of funds
27 represented by the Uncashed Settlement Checks to the *cy pres* recipient, the Settlement
28 Administrator will prepare a declaration stating the total amount of funds represented by the

1 Uncashed Settlement Checks and confirming that the procedures for the treatment of Uncashed
2 Settlement Checks established by this Agreement have been followed. Plaintiffs' Counsel shall
3 file the Settlement Administrator's declaration with the Court if requested by the Court.

4 M. **Miscellaneous Provisions.**

5 1) **Acknowledgement that the Settlement is Fair, Adequate and Reasonable.**

6 The Parties and their respective counsel believe that this Settlement is a fair, adequate and
7 reasonable settlement of the Action and they have arrived at this Settlement through arm's length
8 negotiations, taking into account all relevant factors, present and potential.

9 2) **Increase in the Gross Settlement Amount.** Defendants represent that

10 there are no more than 35,000 Pay Periods worked from April 20, 2020 through the date of
11 mediation. In the event the number of Pay Periods in the PAGA Period increases by more than
12 10% or 3,500 Pay Periods, then the Gross Settlement Sum shall be increased proportionally by
13 the Pay Periods in the PAGA Period in excess of 38,500 Pay Periods multiplied by the Pay Period
14 Value. The Pay Period Value shall be calculated by dividing the Gross Settlement Sum by 35,000
15 Pay Periods. The Parties agree that the Pay Period Value amounts to and the settlement amounts
16 to \$30.00 per Pay Period (\$1,050,000.00 / 35,000 Pay Periods). Thus, for example, should there
17 be 42,000 Pay Periods worked by Aggrieved Employees in the PAGA Period, then the Gross
18 Settlement Amount shall be increased by \$105,000.00. ((42,000 Pay Periods – 38,500 Pay
19 Periods) x \$30.00 per Pay Period).

20 3) **Mutual Cooperation.** The Parties and their counsel will cooperate with

21 each other and use their best efforts to affect the implementation of the Settlement. Such
22 cooperation shall include, but not be limited to, execution of such other documents and the taking
23 of such other actions as may reasonably be necessary to fulfill the terms of this Settlement. The
24 Parties shall use their best efforts, including all efforts contemplated by this Agreement and any
25 other efforts that may become necessary by Court Order, or otherwise, to effectuate this
26 Agreement and the terms set forth herein.

27 4) **No Admissions by the Parties.** Plaintiffs have claimed and continue to

28 claim that the PAGA Released Claims have merit and give rise to liability on the part of

1 Defendants. Defendants claim that the PAGA Released Claims have no merit and do not give
2 rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this
3 Agreement and no documents referred to herein and no action taken to carry out this Agreement
4 shall constitute an admission on behalf of Defendants of any form of liability or the accuracy of
5 any allegation made by Plaintiffs or Plaintiffs' Counsel.

6 5) Confidentiality. Plaintiffs and their counsel agree not to issue a press
7 release or otherwise notify the media about the terms of the Settlement Agreement or advertise
8 or market any of the terms of the Settlement Agreement through written, recorded, or electronic
9 communications. In addition, Plaintiff's Counsel will not put details about the settlement on
10 their website. However, this will not prevent Plaintiff's Counsel from undertaking required
11 submissions and disclosures necessary to obtain approval of the Settlement Agreement,
12 including but not limited to, submission of the Settlement Agreement to the LWDA in
13 conformity with the requirements of PAGA and responding to any communications by
14 Aggrieved Employees in connection with the Settlement.

15 6) Amendment or Modification. This Agreement, and any and all parts of it,
16 may be amended, modified, changed or waived only by an express written instrument signed by
17 all Parties or their successors-in-interest.

18 7) Mutual Drafting of Agreement. The Parties agree that the terms of this
19 Agreement and the accompanying exhibits are the result of substantial, arm's-length negotiations
20 and that this Agreement shall not be construed in favor of or against any of the Parties by reason
21 of the extent to which any of the Parties or their respective counsel participated in the drafting
22 of this Agreement.

23 8) Attorney Authorization. Counsel for the Parties warrant and represent that
24 they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action
25 required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its
26 terms, and to execute any other documents required to effectuate the terms of this Settlement.

27 9) Binding on Successors and Assigns. This Agreement is binding upon and
28 inures to the benefit of, the Parties' successors and assigns.

1 10) Governing Law. This Agreement shall be governed by and interpreted
2 according to the laws of the State of California.

3 11) Exhibit(s) Incorporated by Reference. The terms of this Agreement
4 include the terms set forth in any attached exhibit(s), which are incorporated by this reference as
5 though fully set forth herein. Any exhibit to this Agreement is an integral part of the Settlement.

6 12) Invalidity of Any Provision. Before declaring any provision of this
7 Agreement invalid, the Court shall first attempt to construe the provision(s) valid to the fullest
8 extent possible consistent with applicable precedents so as to define all provisions of this
9 Settlement valid and enforceable.

10 13) Notices. Whenever this Agreement requires or contemplates that one of
11 the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-
12 day (excluding Saturdays, Sundays and holidays) express delivery service addressed to the
13 address of the Party's counsel appearing in this Agreement.

14 14) Jurisdiction of the Court. The Parties agree that the Court shall retain
15 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of
16 this Agreement and all orders and judgments entered in connection therewith, and the Parties
17 and their respective counsel hereto submit to the jurisdiction of the Court for purposes of
18 interpreting, implementing, and enforcing the settlement embodied in this Agreement and all
19 orders and judgments entered in connection therewith.

20 15) Binding Agreement. The Parties intend that this Agreement shall be fully
21 enforceable and binding on all Parties, and that it shall be admissible and subject to disclosure
22 in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions
23 that otherwise might apply under federal or state law.

24 16) Entire Agreement. This Agreement and any attached exhibits constitute
25 the entirety of the Parties' settlement terms as it pertains to this subject matter (*i.e.*, settlement
26 and release of the PAGA Released Claims by Aggrieved Employees). No other prior or
27 contemporaneous written or oral agreements may be deemed binding on the Parties as it pertains
28 to this limited subject matter.

17) Counterparts. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument, provided that counsel for the Parties to this Agreement exchange among themselves copies or originals of the signed counterparts.

18) Advice of Counsel: The Parties to this Agreement are represented by competent counsel and they have had an opportunity to consult with counsel. The Parties to this Agreement agree that it reflects their good faith compromise of the claims raised in the Action, based upon their assessment of the mutual risks and costs of further litigation, and the assessments of their respective counsel.

19) Parties' Authority. The signatories to this Agreement, including any person executing on behalf of a corporate signatory, warrant and represent that they are fully authorized to enter into this Agreement and to bind the Parties hereto to the terms and conditions of the Agreement.

IT IS SO AGREED:

Dated: Mar 1, 2023, 2023


Hector Iraheta (Mar 1, 2023 11:31 PST)
HECTOR IRAHETA
Plaintiff

Dated: _____, 2023

JOHN ANTHONY VASQUEZ
Plaintiff

Dated: _____, 2023

Defendant LEGACY FRAMERS, INC.
By: _____
Its: _____

1 Dated: _____, 2023

2 _____
3 DAVID J. GUTRIDGE
4 Defendant

5 **AGREED AS TO FORM:**

6
7 Dated: 3/1 _____, 2023

Vedang J. Patel

8 _____
9 DAVID D. BIBIYAN
10 VEDANG J. PATEL
11 **Counsel for Plaintiffs Hector Iraheta and John**
12 **Anthony Vasquez**

13 **AGREED AS TO FORM:**

14
15 Dated: _____, 2023

16 _____
17 BRITNEY N. TORRES
18 ROBERT GEIGER
19 **Counsel for Defendants Legacy Framers, Inc.,**
20 **and David J. Gutridge**

17) Counterparts. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument, provided that counsel for the Parties to this Agreement exchange among themselves copies or originals of the signed counterparts.

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19) Parties' Authority. The signatories to this Agreement, including any person executing on behalf of a corporate signatory, warrant and represent that they are fully authorized to enter into this Agreement and to bind the Parties hereto to the terms and conditions of the Agreement.

IT IS SO AGREED:

Dated: _____, 2023

HECTOR IRAHETA
Plaintiff

Dated: Mar 2, 2023, 2023



John Vasquez (Mar 2, 2023 19:27 PST)
JOHN ANTHONY VASQUEZ
Plaintiff

Dated: _____, 2023

Defendant LEGACY FRAMERS, INC.
By: _____
Its: _____

1 17) Counterparts. This Agreement may be executed in one or more
2 counterparts. All executed counterparts and each of them, including facsimile and scanned
3 copies of the signature page, will be deemed to be one and the same instrument, provided that
4 counsel for the Parties to this Agreement exchange among themselves copies or originals of the
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10 assessments of their respective counsel.

11 19) Parties' Authority. The signatories to this Agreement, including any
12 person executing on behalf of a corporate signatory, warrant and represent that they are fully
13 authorized to enter into this Agreement and to bind the Parties hereto to the terms and conditions
14 of the Agreement.

15
16 **IT IS SO AGREED:**

17 Dated: _____, 2023

18 _____
19 HECTOR IRAHETA
20 Plaintiff

21 Dated: _____, 2023

22 _____
23 JOHN ANTHONY VASQUEZ
24 Plaintiff

25 Dated: March 2 _____, 2023

26 _____
27 Defendant LEGACY FRAMERS, INC.
28 By: David Gutridge
Its: CEO

1 Dated: March 2, 2023


DAVID J. GUTRIDGE
Defendant

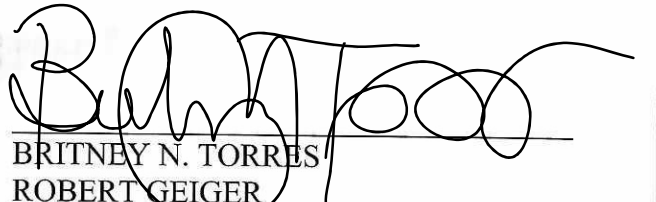
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5 **AGREED AS TO FORM:**

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7 Dated: _____, 2023

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DAVID D. BIBIYAN
VEDANG J. PATEL
**Counsel for Plaintiffs Hector Iraheta and John
Anthony Vasquez**

11 **AGREED AS TO FORM:**

14 Dated: March 2, 2023


BRITNEY N. TORRES
ROBERT GEIGER
**Counsel for Defendants Legacy Framers, Inc.,
and David J. Gutridge**