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Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

RICARDO RODRIGUEZ-ALVAREZ, as
an individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

NORTHWEST CONFECTIONS
CALIFORNIA, LLC, a California limited
liability company; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 34-2021-00300622-CU-OE-GDS

**DECLARATION OF MAX W. GAVRON IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: January 4, 2023

Time: 9:00 a.m.

Dept.: 54

Reservation No.: 2690543

Complaint Filed: May 12, 2021

FAC Filed: June 11, 2021

Trial Date: None

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I, Max W. Gavron, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, counsel of record for Plaintiff Ricardo Rodriguez-Alvarez (“Plaintiff”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

PROCEDURAL HISTORY

2. On April 16, 2021, Plaintiff submitted written notice to the California Labor and Workforce Development Agency (“LWDA”), alleging violations of Labor Code §§ 201-204, 226(a), 227.3, 510, 558, 1194, 1197, and 1197.1, pursuant to the Private Attorneys General Act (“PAGA”), Labor Code § 2699 (“PAGA letter”).

3. On May 12, 2021, Plaintiff filed a class action complaint in the Superior Court of the State of California for the County of Sacramento on behalf of himself and all similarly situated employees. Plaintiff asserted claims for: (1) failure to pay wages; (2) violation of Labor Code § 227.3; (3) violation of Labor Code § 226(a); and (5) violation of Business and Professions Code § 17200, *et seq.*

4. On June 11, 2021, Plaintiff filed a First Amended Complaint adding a cause of action for violation of Labor Code § § 2698, *et seq.* The First Amended Complaint is the operative complaint.

5. Plaintiff's class and PAGA claims as pled in the First Amended Complaint are predicated upon the following allegations. With respect to Plaintiff's failure to pay wages claim, Plaintiff contends that Defendant subjected its employees to daily COVID-19 screening procedures prior to entering the work premises. These screening procedures were conducted prior to the start of the shift, and as such, employees were not paid minimum, regular, and/or overtime wages for the time spent undergoing the procedures. With respect to Plaintiff's vacation wages claim, Plaintiff contends that Defendant failed to pay all earned and unused vacation wages upon separation of employment. With respect to Plaintiff's wage statement claims, Plaintiff contends that Defendant issued deficient wage statements, as said wage statements do

not correctly identify the number of hours worked, total hours worked, and gross and net wages earned as a result of the underpayment and/or nonpayment of wages. As a result of the alleged violations above, Plaintiff seeks damages and penalties under the California Labor Code, the California Business & Professions Code, and the PAGA, as well as attorneys' fees and costs.

6. After the Parties conferred regarding possible settlement discussions, they agreed to exchange information informally to evaluate their respective claims and defenses. The Parties subsequently engaged in informal discovery for Plaintiff to assess the claims, as well as the maximum exposure of damages and penalties. Defendant provided Plaintiff's counsel with informal data and information pertaining to the putative class size and number of pay periods, a sampling of time and pay records, Plaintiff's time records, and Defendants' wage and hour policies and practices. Defendant's production of time records allowed Plaintiff to conduct a damages analysis and extrapolate from the sample.

7. On July 19, 2022, the Parties engaged in a full-day mediation with mediator Kelly A. Knight, Esq., and continued settlement discussions thereafter facilitated by Mr. Knight. After thorough investigation and evaluation of the facts and claims, and as a result of the arm's length negotiations facilitated by Mr. Knight, the Parties reached the current settlement. In resolution of Plaintiff's class and PAGA claims, the Parties entered into the Joint Stipulation of Class Action and PAGA Settlement ("Agreement" or "Settlement Agreement"), a true and correct copy of which is attached hereto as **Exhibit A**.

8. The Parties recognize the risk, expense, and delay in continuing litigation with the class and PAGA claims, and believe the settlement to be fair, reasonable, and adequate.

9. Each side has apprised the other of their respective factual contentions, legal theories, and defenses, resulting in negotiations taking place between the Parties.

THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

10. Based on the class data provided by Defendant and Defendant's contention that it paid employees for time spent undergoing COVID inspections, Plaintiff significantly discounted the exposure on this claim. Plaintiff estimated that if he was successful in demonstrating liability for every shift an employee worked, the maximum liability could be as high as approximately

1 \$32,000 if employees were underpaid 2 minutes per shift and underwent an inspection every
2 shift. Defendant argued, and records supported, that Defendant paid employees additional time
3 spent undergoing COVID screenings and thus Plaintiff considered this potentially dispositive
4 defense in evaluating this claim.

5 11. With respect to Plaintiff's claim for failure to pay vested vacation wages, Plaintiff
6 estimated that Defendant could be liable for up to approximately \$347,904. At the time of
7 separation of employment, Plaintiff had accrued 64.00 hours of unused vacation time. Assuming
8 an hourly pay rate of \$18.00, Plaintiff was owed approximately \$1,152.00. Based on the amount
9 owed to him, Plaintiff estimated that the potential exposure on this claim was approximately
10 \$347,907, which he calculated based on 302 former employees, whose average rate of pay was
11 \$18.00 (302 employees x 64.00 hours x \$18.00 per hour).

12 12. On the other hand, Defendant argued that Plaintiff's theory of liability only
13 impacted employees, like Plaintiff, who separated within their first 90 days of employment.
14 Defendant contended that there were at maximum 151 such employees, and most of them
15 worked 35 days or less which would significantly reduce the amount of banked vacation pay that
16 would be owed upon separation of employment. These arguments, if successful, would have
17 diminished the value of this claim.

18 13. With respect to Plaintiff's claim for waiting time penalties, Plaintiff estimated the
19 potential exposure on this claim was approximately \$1.3 million, which he calculated based on
20 302 former employees, whose average rate of pay was \$18.00 (302 employees x 8 hours x 30
21 days x \$18.00 per hour). To succeed on this claim, Plaintiff would have to defeat Defendant's
22 argument that its alleged failure to pay any wages was subject to a "good faith" defense. *See Hill*
23 *v. Walmart Inc.*, 32 F.4th 811, 823 (9th Cir. 2022) (holding that defendant presented good faith
24 dispute precluding imposition of Section 203 penalties even where trial court denied employer's
25 motion for summary judgment on same issue). Defendant argued that it did not willfully fail to
26 pay wages upon separation thus precluding penalties.

27 14. With respect to Plaintiff's claim for violation of Labor Code § 226, Plaintiff
28 estimated the penalties associated with this claim as approximately \$661,900, which was based

on 6,619 alleged pay periods. This amount would likely end up lower than estimated because this valuation assumed \$100 penalty a pay period, whereas Section 226(e) provides for a \$50 initial penalty followed by \$100 for subsequent violations. Lab. Code § 226(e). Further, Defendant would have argued that the violation was not “knowing and intentional” and thus would not warrant Section 226(e) penalties. *See Harris v. Vector Mktg. Corp.*, 656 F. Supp. 2d 1128, 1145-46 (N.D. Cal. 2009) (granting summary judgment in favor of employer and finding its conduct was not “knowing and intentional”). Defendant would have argued that it was entitled to a “good faith” defense on this claim, too. *See, e.g., Apodaca v. Costco Wholesale Corp.*, 2014 WL 2533427, at *3 (C.D. Cal. June 5, 2014) (“Where an employer has a good faith belief that it is not in violation of Section 226, any violation is not knowing and intentional.”); *Wright v. Adventures Rolling Cross Country, Inc.*, 2013 WL 1758815, at *9 (N.D. Cal. Apr. 24, 2013) (same); *Ricaldai v. U.S. Investigations Servs., LLC*, 878 F. Supp. 2d 1038, 1047 (N.D. Cal. 2012) (same); *Dalton v. Lee Publ'ns, Inc.*, 2011 WL 1045107, at *5 (S.D. Cal. Mar. 22, 2011) (same).

15. With respect to potential liability of Plaintiff’s PAGA claims, Plaintiff estimated that Defendant could face civil penalties of up to \$661,900 if Plaintiff were successful at trial. While the PAGA does provide for a heightened “subsequent” penalty, courts are hesitant to award that amount where there has not been a prior violation of the Labor Code. *Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1209 (2008); *accord Amalgamated Transit Union Local 1309 v. Laidlaw Transit Service, Inc.* 2009 WL 2448430, at *9 (S.D. Cal. Aug. 10, 2009) (“[u]nder California law, courts have held that employers are not subject to heightened penalties for subsequent violations unless and until a court or commissioner notifies the employer that it is in violation of the Labor Code”); *see also Bernstein v. Virgin Am., Inc.*, 3 F.4th 1127, 1144 (9th Cir. 2021) (holding no subsequent penalty unless prior citation or court ruling). Defendant argued no such prior violation occurred here warranting only the initial penalty, if anything at all.

16. Even assuming Plaintiff ultimately prevails on his PAGA claims, the Court still has discretion to reduce any PAGA penalties. Pursuant to Labor Code § 2699(e)(2), the Court can decline to award PAGA penalties where “if, based on the facts and circumstances of the

1 particular case, to do otherwise, would result in an award that is unjust, arbitrary and oppressive,
2 or confiscatory.” Indeed, as shown in the Court of Appeal’s decision in *Carrington v. Starbucks*
3 *Corp.*, 30 Cal. App. 5th 504 (2018), while the plaintiff prevailed on his PAGA claim upon trial,
4 the trial court reduced the maximum PAGA penalty amount by 90%, citing the employer’s good
5 faith attempt at complying with the law. *Id.* at p. 517. Upon review, the Court of Appeal found
6 such reduction to be proper. *Id.* at p. 539.

7 17. Although Plaintiff believes in the merits of the alleged claims and maintains that
8 there is no reason for reducing PAGA penalties, Plaintiff is aware that Defendant would raise
9 defenses to the claims and further with respect to the reduction of PAGA penalties and that those
10 defenses could persuade the Court. Thus, even if Plaintiff were to successfully prove his claims
11 at trial, there is a possibility that the Court may only award a small percentage of PAGA
12 penalties, as the Court has discretion to do so. The Gross Settlement Amount was premised with
13 this risk in mind, associated with the possibility of the Court significantly reducing PAGA
14 penalties.

15 18. Although Plaintiff believes that the class can be certified, Plaintiff also believes in
16 the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff
17 involved in not prevailing on one or more of the causes of action or theories alleged in the
18 operative Complaint, the possibility of non-certification, and the potential for appeals.

19 19. Here, the total amount of class and PAGA penalties amount to approximately \$3
20 million, without discounting for potentially losing on any of the causes of action. The Gross
21 Settlement Amount is \$257,500.00, which is approximately 9% of the maximum class and
22 PAGA penalties. *Id.* If the Court were to reduce the PAGA penalties, like in *Carrington*, the
23 Gross Settlement Amount is closer to 11% of the maximum exposure. Thus, the settlement was
24 negotiated at arm’s length and the significantly high settlement percentage-to-recovery further
25 supports that the settlement is fair and reasonable.

26 20. Pursuant to the Settlement Agreement, the Net Settlement Amount will be
27 apportioned among the Class Members on a pro rata basis, based on the number of pay periods
28 worked by each respective Class Member during the Class Period, as compared to the total

1 number of pay periods worked by all Class Members during the Class Period. *See* Agreement ¶
2 45.a. Based thereon, on a raw average, each Class Member potentially may recover
3 approximately \$269.71 ($\$122,716.67 \div 455$ Class Members). The amount actually paid to each
4 Participating Class Member will increase or decrease depending on the number of pay periods he
5 or she worked during the Class Period and the number of putative class members who choose not
6 to participate in the settlement.

7 21. Additionally, as part of the PAGA Payment, 25% of the PAGA Payment, or
8 \$1,250.00, shall be paid to PAGA Members who worked during the PAGA Period (the period
9 commencing on April 16, 2020, and ending on the date the Court signs an order granting
10 preliminary approval of the Settlement, or September 19, 2022, whichever is sooner), on a pro
11 rata basis, based on the number of pay periods worked by each PAGA Member during the
12 PAGA Period as compared to the total number of pay periods worked by all PAGA Members
13 during the PAGA Period. Agreement ¶ 45.b.

14 22. The Settlement Agreement provides for the payment to the Settlement
15 Administrator for the administration of this current settlement. Based on my experience, I
16 believe the quote provided by Phoenix Settlement Administrators for a capped fee of \$8,950.00
17 to administer the settlement is reasonable given the scope of services requested.

18 23. The terms of the settlement provide that uncashed checks (upon the expiration
19 date) shall be distributed to the *cy pres* recipient Legal Aid at Work, in accordance with
20 California Civil Procedure § 384. *See* Agreement ¶ 58. Plaintiff's counsel does not have any
21 relationship with or connection to said organization that presents a conflict of interest.

22 24. Based on their own independent investigation and evaluation, the Parties and their
23 respective counsel are of the opinion that settlement for the consideration and on the terms set
24 forth in the Settlement Agreement is fair, reasonable, and adequate and is in the best interests of
25 the Class and Defendant in light of all known facts and circumstances and the expenses and risks
26 inherent in litigation.

27 25. From the inception of the case, Class Counsel have zealously represented the
28 interests of the Class. Class Counsel engaged in significant meet and confer discussions with

opposing counsel to obtain informal data and documents and to discuss the merits of the claims on behalf of the Class. This settlement was obtained for the benefit of the Class, as opposed to the individual Class Representative.

26. I have spent significant time researching and pursuing the claims that have been alleged in this action. The Parties engaged in informal discovery in connection with mediation and participated in the exchange of class data and Defendant's pertinent policies and practices. Based on my review of all the documents and information, and based on my experience in class action litigation, I believe this settlement to be fair, adequate, and reasonable.

27. I was retained based upon a contingency fee arrangement wherein Plaintiff's counsel agreed to advance all costs and receive no fee unless a recovery was accomplished. Specifically, had Plaintiff failed to prevail in this case, counsel for Plaintiff would have spent a significant amount of time, money and other resources without any benefit or return. In addition, had Plaintiff also failed to prevail in the present case, Defendant would have been able to seek costs in connection with their defense of the case.

ATTORNEY EXPERIENCE

28. I am one of the primary attorneys on this matter. My qualifications are as follows: I received a full-tuition scholarship, and graduated from Southwestern Law School in 2013, magna cum laude. I was in the top 5% of my class. During my time at Southwestern, I was a Notes and Comments Editor on the Southwestern Law Review. I also received awards for achieving the highest grade in my class in several courses. In 2012, I was a full-time extern, at the United States District Court for the Central District. Immediately after law school, I taught several courses at Southwestern, including Principles of Legal Analysis and Legal Methods. I taught those courses for approximately four years.

29. I practiced civil litigation at Haight Brown & Bonesteel LLP from approximately September 2013, through January 2016. I was third-chair in a federal court jury trial that resulted in a defense verdict in our client's favor on a \$21 million commercial breach of contract dispute. I also regularly litigated cases across the civil litigation spectrum, including employment matters.

30. From February 2016, through Fall 2017, I practiced at the international law firm

1 of Arnold & Porter, which had recently merged with Kaye Scholer, LLP. I defended Fortune 50
2 companies in Multi-District Litigation primarily in the product liability sphere. I also
3 successfully drafted an appellate brief in the Ninth Circuit resulting in the reversal of a summary
4 judgment decision regarding trade secret issues, in addition to working in several other practice
5 groups.

6 31. From September 2017, through September 2018, I served as a law clerk to a
7 Judge sitting on the United States District Court, Central District of California. I regularly
8 prepared bench memoranda, on cases involving all types of civil litigation, including regularly
9 working on wage and hour class actions.

10 32. I am currently an associate at the law firm Diversity Law Group, P.C., an
11 employment law firm that has handled numerous wage and hour class and individual actions, on
12 both plaintiff and defense sides. My current practice focuses on employment matters involving
13 both class actions, and single plaintiffs. The firm currently has cases in the Los Angeles Superior
14 Courts, the Orange County Superior Courts, the San Diego County Superior Courts, and the
15 United States District Courts for the Central, Northern, and Eastern Districts of California. I am
16 currently handling, or have handled, numerous wage and hour class action lawsuits with the firm,
17 including, but not limited to: *Agar v. Sensient Natural Ingredients, LLC* (Case No. CV-19-
18 001906, Stanislaus County Superior Court); *Heredia v. Eddie Bauer LLC* (Case No.
19 16CV300475, United States District Court, Northern District of California); *Parsons v. Estenson*
20 *Logistics, LLC* (Case No. 34-2019-00252929, Sacramento County Superior Court); and *Rodas v.*
21 *Goodyear Tire* (Case No. 21-cv-07526, United States District Court, Central District of
22 California), among many others.

23 33. On June 14, 2019, I argued two related cases in front of the Ninth Circuit Court of
24 Appeals. One of them was *Rodriguez v Nike Retail Service Inc.*, Case No. 17-16866. On June 28,
25 2019, the Ninth Circuit issued a published decision, reversing and remanding in favor of our
26 clients. *Rodriguez v. Nike Retail Servs., Inc.*, 928 F.3d 810 (9th Cir. 2019).

27 34. I have also assisted the firm in numerous wage and hour class action mediations.

28 35. My co-counsel and I will adequately represent the Class Members in this action.

1 Plaintiff's counsel have and will zealously represent Plaintiff and the Class and pursue this
2 lawsuit to its conclusion.

3 36. I have no conflicts with the Class and will adequately represent the Class.

4 **NOTICE TO THE LWDA**

5 37. Concurrently with this the filing of this Motion, I caused the Motion and
6 Settlement Agreement to be uploaded to the LWDA's website. Attached hereto as **Exhibit B** is
7 the confirmation of submission.

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

10 Executed on this 9th day of December 2022, at Los Angeles, California.

11 
12 Max W. Gavron

EXHIBIT A

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Additional Attorneys on Following Page

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RICARDO RODRIGUEZ-ALVAREZ, as
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NORTHWEST CONFECTIONS
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Case No.: 34-2021-00300622

[Assigned to the Hon. Jill H. Talley, Department
25]

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT**

Complaint Filed: May 12, 2021
FAC Filed: June 11, 2021
Trial Date: None

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8 Attorneys for Defendant

9 NORTHWEST CONFECTIONS CALIFORNIA, LLC

1 **JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

2 This Joint Stipulation of Class Action and PAGA Settlement is entered into by and between
3 Plaintiff Ricardo Rodriguez-Alvarez, individually and on behalf of the Settlement Class and
4 Defendant Northwest Confections California, LLC.

5 **DEFINITIONS**

6 1. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class
7 Action and PAGA Settlement.

8 2. “Action” means the court action, entitled “*Rodriguez-Alvarez v. Northwest*
9 *Confections California, LLC* (Case No. 34-2021-00300622, pending before the Sacramento
10 County Superior Court.

11 3. “Class Counsel” means Diversity Law Group, P.C. and Webber Law Group.

12 4. “Class Counsel’s Fees and Costs” means attorneys’ fees for Class Counsel’s
13 litigation and resolution of this Action and their expenses and costs incurred in connection with
14 the Action, which shall be paid from the Gross Settlement Amount. Class Counsel will request
15 attorneys’ fees not to exceed Eighty-Five Thousand Eight Hundred Thirty-Three Dollars and
16 Thirty-Three Cents (\$85,833.33), which is Thirty-Three and One-Third Percent (33 1/3%) of the
17 Gross Settlement Amount, and the reimbursement costs and expenses associated with the litigation
18 and settlement of the Action, not to exceed Twenty-Five Thousand Dollars (\$25,000.00), subject
19 to the Court’s approval. Defendants have agreed not to oppose Class Counsel’s request for fees
20 and reimbursement of costs and expenses in the amount set forth above.

21 5. “Class List” means a complete list of all Class Members that Defendants will
22 diligently and in good faith compile from their records and provide to the Settlement Administrator
23 within fifteen (15) calendar days after Preliminary Approval of this Settlement. The Class List will
24 be formatted in a readable Microsoft Office Excel spreadsheet and will include Class Member’s:
25 (1) full name; (2) last known home address; (3) last known telephone number; (4) Social Security
26 number; (5) start and end dates of active employment as a non-exempt employee of Defendants in
27 the State of California; (6) total Pay Periods during the Class Period or sufficient information in
28 order for the Settlement Administrator to calculate total Pay Periods; and (8) any other information

required by the Settlement Administrator in order to effectuate the terms of the Settlement. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and shall only access and use the list to administer the settlement in conformity with the Court's orders.

6. "Class" or "Class Members" means all current and former non-exempt employees of Defendants who were employed in the State of California at any time during the Class Period.

7. "Class Notice" means the Notice of Class Action Settlement in a form substantially similar to the form attached hereto as Exhibit A, that will be mailed to Class Members' last known addresses and which will provide Class Members with information regarding the Action and information regarding the settlement of the Action.

8. "Class Period" means the period commencing on May 12, 2017, and ending on the date the Court signs an order granting preliminary approval of the Settlement, or September 19, 2022, whichever is sooner.

9. "Class Representative" or "Named Plaintiff" means Plaintiff Ricardo Rodriguez-Alvarez in his capacity as the representative of the Participating Class Members.

10. "Class Representative Incentive Payment" means the amount that the Court authorizes to be paid to Named Plaintiff, in addition to his Individual Settlement Payment, in exchange for his general release of all claims pursuant to California Civil Code § 1542 and in recognition of the efforts and risks he has taken in assisting with the prosecution of the Action. Named Plaintiff will request, and Defendants will not oppose, an Incentive Payment of up to Ten Thousand Dollars (\$10,000.00). Named Plaintiff will be issued an IRS Form 1099 in connection with his Incentive Payment.

11. "Court" means the Superior Court of the State of California for the County of Sacramento.

12. "Defendants" mean Northwest Confections California, LLC as named by Plaintiff in the operative complaint, and its past, present and/or future, direct and/or indirect, stockholders, shareholders, members, directors, managers, officers, employees, agents, representatives, attorneys, insurers, reinsurers, partners, investors, lenders, administrators, parent companies,

1 subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

2 13. “Effective Date” means: the later of: (a) if no timely objections are filed or if all
3 objections are withdrawn, the date upon which the Court enters the Final Approval Order and Final
4 Judgment for the entire class and PAGA Settlement; (b) if an objection is filed and not withdrawn,
5 or if Final Approval is not entered for the entire class and PAGA Settlement, the date for filing an
6 appeal and no such appeal being filed; or (c) if any timely appeals are filed, the date of the
7 resolution (or withdrawal) of any such appeal in a way that does not alter the terms of the
8 settlement.

9 14. “Final Approval Order and Final Judgment” means the Court entering an order
10 granting final approval of the Settlement Agreement and judgment based thereon which includes
11 the following provisions: (a) confirming certification of the Class for settlement purposes only; (b)
12 finding that the dissemination of the Class Notice in the form and manner ordered by the Court
13 was accomplished as directed and met the requirements of due process; (c) finally approving the
14 Settlement Agreement and the Settlement as fair, reasonable and adequate, and directing
15 consummation of the Settlement in accordance with its terms and provisions; (d) directing the
16 Parties to implement the terms of the Settlement Agreement; (e) releasing and discharging the
17 Released Parties from any and all liability with respect to the Released Claims as provided herein;
18 (f) resolving and settling all the Released Claims by the Class Representative and all Participating
19 Class Members, as herein provided; (g) awarding reasonable attorneys’ fees and litigation costs to
20 Class Counsel as determined by the Court; (h) awarding a Class Representative Incentive Payment
21 to Class Representative as determined by the Court; (i) awarding Settlement Administration Costs
22 to the Settlement Administrator as determined by the Court; (j) approving the allocation of PAGA
23 Penalties to the LWDA; (k) entering final judgment on the operative Complaint; and (l) preserving
24 continuing and exclusive jurisdiction over all matters related to the administration and
25 consummation of the terms of this Settlement and enforcement of the Judgment.

26 15. “Gross Settlement Amount” means the sum of Two Hundred Fifty-Seven Thousand
27 Five Hundred Dollars (\$257,500.00). The Gross Settlement Amount is non-reversionary; no
28 portion of the Gross Settlement Amount will return to Defendants. The Gross Settlement Amount

shall be the maximum amount Defendants are required to pay under the Settlement.

16. “Individual Settlement Payment” means the amount payable from the Net Settlement Amount to each Participating Class Member and any payment a PAGA Member is eligible to receive from the employee portion of the PAGA Payment. Individual Settlement Payments shall be paid by a Settlement Check made payable to Participating Class Members and/or PAGA Members.

17. “Net Settlement Amount” means the funds available for payments to the Class, which shall be the amount remaining after the following amounts are deducted from the Gross Settlement Amount: (1) Class Counsel’s fees, (2) Class Counsel’s costs, (3) Settlement Administration Costs, (4) Class Representative Incentive Payment to Plaintiff; (5) PAGA Payment to the LWDA and PAGA Members; and (6) all payroll taxes for any amounts allocated as wages.

18. “Objection” means a Class Member’s valid and timely written objection to the Settlement Agreement. For an Objection to be valid, it must include: (a) the objector’s full name, address, telephone number, last four digits of the employee’s Social Security number or Employee Identification Number and (b) a written statement of all grounds for the objection accompanied by legal support, if any, for such objection. To be effective, the Objection must be post-marked by the Response Deadline and received by the Settlement Administrator.

19. “PAGA” means the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”).

20. “PAGA Members” means all current and former non-exempt employees of Defendants who were employed in the State of California at any time during the PAGA Period.

21. “PAGA Payment” means the amount that the Parties have agreed to allocate in order to settle claims arising under the Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*). The Parties have agreed that Five Thousand Dollars (\$5,000.00) of the Gross Settlement Amount will be allocated to the resolution of Plaintiff’s PAGA Claim. Seventy-five percent (75%) of this amount (\$3,750.00) will be paid to the California Labor and Workforce Development Agency in accordance with Labor Code §§ 2698, *et seq.* Twenty-five percent (25%) of this amount (\$1,250.00), will be distributed to PAGA Members on a *pro rata* basis based on the

total number of Pay Periods (full or partial) worked by each PAGA Member during the PAGA Period. PAGA Members will receive payment from the employee portion of the PAGA Payment regardless of their decision to participate in the class action if the PAGA Payment is approved by the Court.

22. “PAGA Period” means the period commencing on April 16, 2020, and ending on the date the Court signs an order granting preliminary approval of the Settlement, or September 19, 2022, whichever is sooner.

23. “PAGA Release” means the following release: all claims, rights, demands, liabilities and causes of action that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the PAGA letter, dated April 15, 2021, under the PAGA, Cal. Lab. Code §§ 2698, *et seq.*, which are premised on alleged violations of the California Labor Code for: (i) failure to pay overtime and/or minimum wages; (ii) failure to provide complete, accurate wage statements or disclosures; (iii) failure to pay all vacation wages at separation of employment; (iv) failure to timely pay wages upon separation of employment, including but not limited to Labor Code §§ 201, 202, 203, 204, 226, 227.3, 510, 558, 1194, 1197, 1197.1, and 2699, and the relevant Wage Orders issued by the Industrial Welfare Commission; and (v) all claims for attorneys’ fees and costs as provided by the PAGA. This release shall apply to claims arising during the PAGA Period.

24. “Parties” means Plaintiff and Defendants, collectively, and “Party” shall mean either Plaintiff or Defendants, individually.

25. “Participating Class Members” means all Class Members who do not submit valid and timely Requests for Exclusion.

26. “Pay Period” shall mean any pay period in which a Class Member or PAGA Member worked for Defendants in the State of California.

27. “Plaintiff” means Ricardo Rodriguez-Alvarez.

28. “Preliminary Approval” means the Court order granting preliminary approval of the Settlement Agreement.

29. “Released Claims” means all claims, rights, demands, liabilities and causes of

1 action that are alleged, or reasonably could have been alleged based on the facts and claims
2 asserted in the operative complaint in this action including the following claims: (i) failure to pay
3 overtime and/or minimum wages; (ii) failure to provide complete, accurate wage statements or
4 disclosures; (iii) failure to pay all vacation wages at separation of employment; (iv) failure to
5 timely pay wages upon separation of employment; (v) unfair business practices that could have
6 been premised on the claims, causes of action or legal theories of relief described above or any of
7 the claims, causes of action or legal theories of relief pleaded in the operative complaint; (vi) all
8 claims under the California Labor Code Private Attorneys General Act of 2004 (Labor Code §§
9 2698, *et seq.*) or for civil penalties that could have been premised on the claims, causes of action
10 or legal theories described above or any of the claims, causes of action or legal theories of relief
11 pleaded in the operative complaint including Labor Code §§ 201, 202, 203, 204, 226, 227.3, 510,
12 558, 1194, 1197, 1197.1, and 2699, and the relevant Wage Orders issued by the Industrial Welfare
13 Commission; and (vii) all claims for attorneys' fees and costs as provided for the preceding causes
14 of action, including those provided by Labor Code §§ 218.5, 226, 1194, and 2699, Business &
15 Professions Code §§ 17200, *et seq.*, and Code of Civil Procedure § 1021.5. This release shall apply
16 to claims arising during the Class Period.

17 30. "Released Parties" means Northwest Confections California, LLC as named by
18 Plaintiff in the operative complaint, and its past, present and/or future, direct and/or indirect,
19 stockholders, shareholders, members, directors, managers, officers, employees, agents,
20 representatives, attorneys, insurers, reinsurers, partners, investors, lenders, administrators, parent
21 companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint
22 venturers.

23 31. "Request for Exclusion" means a valid and timely written statement submitted by
24 a Class Member requesting to be excluded from the Action. To be effective, the Request for
25 Exclusion must contain (a) the Class Member's name, address, telephone number, and the last four
26 digits of the Class Member's Social Security number and/or the Employee Identification Number
27 and (b) a clear statement requesting to be excluded from the settlement of the class claims similar
28 to the following: "I wish to exclude myself from the class settlement reached in the matter of

1 *Rodriguez-Alvarez v. Northwest Confections*. I understand that by excluding myself I will not
2 receive money from the settlement of my individual claims.” To be effective, the Request for
3 Exclusion must be post-marked by the Response Deadline and received by the Settlement
4 Administrator. The Request for Exclusion shall not exclude any PAGA Member from the PAGA
5 Release.

6 32. “Response Deadline” means the date forty-five (45) days after the Settlement
7 Administrator mails Class Notice to Class Members and the last date on which Class Members
8 may submit Requests for Exclusion, Objections to the Settlement, or Pay Period Disputes. In the
9 event the 45th day falls on a Sunday or federal holiday, the Response Deadline will be extended
10 to the next day on which the U.S. Postal Service is open. The Response Deadline for Requests for
11 Exclusion or Objections will be extended fifteen (15) calendar days for any Class Member who is
12 re-mailed a Class Notice by the Settlement Administrator, unless the 15th day falls on a Sunday
13 or federal holiday, in which case the Response Deadline will be extended to the next day on which
14 the U.S. Postal Service is open. The Response Deadline may also be extended by express
15 agreement between Class Counsel and Defendants’ Counsel. Under no circumstances, however,
16 will the Settlement Administrator have the authority to unilaterally extend the deadline for Class
17 Members to submit a Request for Exclusion or Objection to the Settlement.

18 33. “Settlement” means the disposition of the Action pursuant to this Agreement.

19 34. “Settlement Administrator” means Phoenix Settlement Administrators. The Parties
20 each represent that they do not have any financial interest in the Settlement Administrator or
21 otherwise have a relationship with the Settlement Administrator that could create a conflict of
22 interest.

23 35. “Settlement Administration Costs” mean the costs payable from the Gross
24 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
25 but not limited to, printing, distributing, and tracking documents for this Settlement,
26 calculating/confirming the Class Member Pay Periods from the information contained in the Class
27 List, calculating each Participating Class Member’s Individual Settlement Payment, tax reporting,
28 distributing the Gross Settlement Amount, providing necessary reports and declarations, and other

1 duties and responsibilities set forth herein to process this Settlement, and as requested by the
2 Parties. Settlement Administration Costs shall not exceed Eight Thousand Nine Hundred and Fifty
3 Dollars (\$8,950.00).

4 **TERMS OF AGREEMENT**

5 36. Settlement Consideration. Defendants shall fund the Gross Settlement Amount
6 following Final Approval Order and Final Judgment entered by the Court and the occurrence of
7 the Effective Date. The following will be paid out of the Gross Settlement Amount: the sum of the
8 Individual Settlement Payments, Class Representative Incentive Payment, Class Counsel's Fees
9 and Costs, PAGA Payment, Settlement Administration Costs, and any employer-side taxes due on
10 the Individual Settlement Payments, as specified in this Agreement. Except for any increase in the
11 number of Pay Periods as set forth below in Paragraph 37, Defendants shall not be required to pay
12 more than the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no
13 portion of the Gross Settlement Amount will revert to Defendants.

14 37. Potential Increase to the Gross Settlement Amount/Limitation of Class Period.
15 Defendants have represented there are approximately 455 Class Members during the Class Period
16 up until June 18, 2022, the date the class employment data was gathered for informal production
17 prior to mediation. Should the total number of Class Members increase by more than ten percent
18 (10%) (*i.e.*, by more than 46 individuals) for the Class Period, Defendants shall have the option to
19 (1) increase the Gross Settlement Amount by an amount equal to the percentage increase in the
20 number of Class Members above 10% (*e.g.*, if there was an 13% increase in the number of Class
21 Members during the Class Period, Defendants would agree to increase the Gross Settlement
22 Amount by 3%); or (2) modify the end date of the Class Period to account for the amount greater
23 than 110% of 455 Class Members (*i.e.*, 501).

24 38. Funding of the Gross Settlement Amount. Within fourteen (14) calendar days of
25 the Effective Date of the Settlement, Defendants will cause to be deposited the Gross Settlement
26 Amount into a Qualified Settlement Fund ("QSF") to be established by the Settlement
27 Administrator, assuming the Settlement Administrator provides all the settlement funding
28 information needed to Defendants. The Settlement Administrator shall timely provide Defendants

1 with a list of information/documents needed to calculate payroll taxes, and Defendants shall
2 provide all information necessary for the Settlement Administrator to calculate necessary payroll
3 taxes including its official name, eight-digit State Unemployment Insurance Tax Identification
4 Number, and other information required by the Settlement Administrator.

5 39. Distribution of the Gross Settlement Amount. Within fourteen (14) calendar days
6 of the funding of the Settlement, the Settlement Administrator will issue payments for: (a)
7 Individual Settlement Payments; (b) the PAGA Payment to the Labor and Workforce Development
8 Agency; (c) the Class Representative Incentive Payment; (d) Class Counsel's Fees and Costs; and
9 (e) Settlement Administration Costs.

10 40. Attorneys' Fees and Costs. Defendants agree not to oppose any application or
11 motion by Class Counsel for attorneys' fees of not more than Eighty-Five Thousand Eight Hundred
12 Thirty-Three Dollars and Thirty-Three Cents (\$85,833.33), plus the reimbursement of costs and
13 expenses associated with the litigation and settlement of the Action, in an amount not to exceed
14 Twenty-Five Thousand Dollars (\$25,000.00), both of which will be paid from the Gross Settlement
15 Amount. Any portion of the requested fees or costs that is not awarded to the Class Counsel shall
16 be reallocated to the Net Settlement Amount and distributed to Participating Class Members as
17 provided in this Agreement.

18 41. Class Representative Incentive Payment. Defendants agree not to oppose or object
19 to any application or motion by Plaintiff for a Class Representative Incentive Payment of Ten
20 Thousand Dollars (\$10,000.00). The Class Representative Incentive Payment is in exchange for
21 his general release of all claims pursuant to California Civil Code § 1542 and in recognition of his
22 time, effort, and risk in bringing and prosecuting the Action. Any portion of the requested Class
23 Representative Incentive Payments that is not awarded to Plaintiff shall be reallocated to the Net
24 Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

25 42. Settlement Administration Costs. The Settlement Administrator will be paid for the
26 reasonable costs of administration of the Settlement and distribution of payments from the Gross
27 Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall
28 not exceed Eight Thousand Nine Hundred and Fifty Dollars (\$8,950.00).

43. PAGA Payment. Five Thousand Dollars (\$5,000.00) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Payment, or Three Thousand Seven Hundred Fifty Dollars (\$3,750.00), to the California Labor and Workforce Development Agency (“LWDA”). The remaining twenty-five percent (25%) of the PAGA Payment, or One Thousand Two Hundred Fifty Dollars (\$1,250.00), will be distributed to PAGA Members on a *pro rata* basis based on the total number of Pay Periods worked by each PAGA Member during the PAGA Period. PAGA Members shall receive their portion of the PAGA Payment and release the claims as set forth herein under the PAGA Release regardless of their decision to opt-out of the class settlement.

44. Net Settlement Amount for Payment of Class Claims. The Net Settlement Amount will be used to satisfy the class portion of Participating Class Members’ Individual Settlement Payments, in accordance with the terms of this Agreement. The estimated Net Settlement Amount based on the maximum amounts Plaintiff intends to request from the Court is as follows:

Gross Settlement Amount	\$	257,500.00
Incentive Payment:	\$	10,000.00
Class Counsel’s Fees:	\$	85,833.33
Class Counsel’s Costs:	\$	25,000.00
PAGA Payment	\$	5,000.00
Settlement Administration Costs:	\$	8,950.00
Estimated Net Settlement Amount	\$	122,716.67

45. Individual Settlement Payment Calculations. Individual Settlement Payments will be paid from the Net Settlement Amount and the 25% portion of the PAGA Payment allocated for PAGA Members and shall be paid pursuant to the formulas set forth herein:

a) Calculation of Class Portion of Individual Settlement Payments. The Settlement Administrator will calculate the total Pay Periods for all Participating Class Members by adding the number of Pay Periods worked by each Participating Class Member during the Class

1 Period. The respective Pay Periods for each Participating Class Member will be divided by the
2 total Pay Periods for all Participating Class Members, resulting in the Payment Ratio for each
3 Participating Class Member. Each Participating Class Member's Payment Ratio will then be
4 multiplied by the Net Settlement Amount to calculate each Settlement Class Member's estimated
5 share of the Net Settlement Amount.

6 b) Calculation of PAGA Portion of Individual Settlement Payments.

7 The Settlement Administrator will calculate the total Pay Periods for all PAGA Members by
8 adding the number of Pay Periods worked by each PAGA Member during the PAGA Period. The
9 respective Pay Periods for each PAGA Member will be divided by the total Pay Periods for all
10 PAGA Members, resulting in the Payment Ratio for each PAGA Member. Each PAGA Member's
11 Payment Ratio will then be multiplied by the employee portion of the PAGA Payment to calculate
12 each PAGA Member's estimated share of the PAGA Payment. PAGA Members shall receive this
13 portion of their Individual Settlement Payment regardless of whether they opt out of the
14 participation regarding the class claims.

15 c) Allocation of Individual Settlement Payments. All Individual

16 Settlement Payments will be allocated as follows: twenty percent (20%) will be allocated as wages,
17 twenty percent (20%) shall be allocated as interest, and sixty percent (60%) shall be allocated as
18 penalties. The portion of the Individual Settlement Payment allocated to wages will be reported by
19 the Settlement Administrator on an IRS Form W-2. The remaining non-wage payments and PAGA
20 Payment will be reported on an IRS Form-1099 by the Settlement Administrator, if required by
21 law.

22 46. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
23 Participating Class Members under this Settlement, as well as any other payments made pursuant
24 to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans
25 to which any Class Members may be eligible, including, but not limited to profit-sharing plans,
26 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and
27 any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not
28 affect any rights, contributions, or amounts to which any Class Members may be entitled under

any benefit plans. Payment of wages shall not extend or alter Participating Class Members' period of employment for any purpose.

47. Settlement Administration Process. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Settlement Administrator will provide the following services:

- a) Establish and maintain a Qualified Settlement Fund.
- b) Calculate the Individual Settlement Payment each Participating Class Member is eligible to receive and the portion of the PAGA Payment each PAGA Member shall receive.
- c) Print and mail the Class Notice.
- d) Conduct additional address searches for mailed Class Notices that are returned as undeliverable.
- e) Process Requests for Exclusion, Objections, and Pay Period Disputes, and field inquiries from Class Members.
- f) Print and issue and issue Settlement Payment Checks, prepare IRS W-2 and 1099 Tax Forms and any other filings required by any governmental taxing authority.
- g) Provide declarations and/or other information to this Court as requested by the Parties and/or the Court.
- h) Provide weekly status reports to counsel for the Parties.
- i) Post a notice of final judgment online at Settlement Administrator's website.

48. Delivery of the Class List. Within Fifteen (15) calendar days after the Court enters Preliminary Approval, Defendants will provide the Class List to the Settlement Administrator. This is a material term of the Settlement, and if Defendants fail to comply, Plaintiff shall have the right to void the Settlement. Plaintiff's counsel shall meet and confer with Defendants' counsel before voiding the Settlement pursuant to this provision.

49. Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the

Class List from Defendants, the Settlement Administrator will mail the Class Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

50. Confirmation of Contact Information in the Class List. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any Class Notice returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address, and/or Social Security number of the Class Member involved and will then perform a single re-mailing. If any Class Notice sent to a Class Member by the Settlement Administrator is returned as undeliverable to a current employee, then Defendants shall make all reasonable efforts to obtain the current address from the Class Member and provide the same within seven (7) calendar days of notice from the Settlement Administrator. Those Class Members who receive a re-mailed Class Notice, whether by skip-trace or by request, will have between the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark a Request for Exclusion or Objection to the Settlement.

51. Class Notice. All Class Members will be mailed a Class Notice. Each Class Notice will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Class definition; (d) the total number of Pay Periods each respective Class Member worked for Defendants during the Class Period; (e) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which comprise the Class Period; (g) the deadlines by which the Class Member must postmark Requests for Exclusion, Objections to the Settlement, or Pay Period Disputes; (h) the claims to be released, as set forth herein; and (j) the date for the final approval hearing.

52. Disputed Information on Class Notice. Class Members will have an opportunity to

dispute the information provided in their Class Notice. To the extent Class Members dispute the number of Pay Periods with which they have been credited or the amount of their Individual Settlement Payment, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendants' records, Defendants' records will be presumed determinative. However, if a Class Member produces evidence to the contrary by the Response Deadline, the Parties will evaluate the evidence submitted by the Class Member and the Parties will make the final decision as to the number of eligible Pay Periods that should be applied and/or the Individual Settlement Payment to which the Class Member may be entitled. If the Parties do not agree, the dispute will be submitted to the Court.

53. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the Action must sign and postmark a written Request for Exclusion to the Settlement Administrator by the Response Deadline. The Request for Exclusion must include: (a) the Class Member's name, address, telephone number, and the last four digits of the Class Member's Social Security number and/or the Employee Identification Number; and (b) a clear statement requesting to be excluded from the settlement of the class claims similar to the following: "I wish to exclude myself from the class settlement reached in the matter of *Rodriguez-Alvarez v. Northwest Confections*. I understand that by excluding myself I will not receive money from the settlement of my individual claims." The date of the postmark on the return mailing envelope receipt confirmation will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly to Class Counsel and Defendants' Counsel the Requests for Exclusion that were timely submitted. All Class Members who do not request exclusion from the Action will be bound by all terms of the Settlement Agreement if the Settlement is granted final approval by the Court. The Request for Exclusion shall not exclude any PAGA Member from the PAGA Release.

54. Defendants' Right to Rescind. If more than five percent (5%) of the Class Members elect not to participate in the Settlement, Defendants may, at their election, rescind the Settlement Agreement and all actions taken in furtherance of it will be thereby null and void. Defendants shall meet and confer with Class Counsel prior to exercising this right. If Defendants exercise their right

to rescind the Agreement, Defendants shall be responsible for all Settlement Administration Costs incurred to the date of rescission.

55. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member who does not affirmatively opt-out of the Settlement by submitting a timely and valid Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the Settlement. Class Members who opt-out of the Settlement shall not be bound by such Judgment or release. The names of Class Members who have opted-out of the settlement shall be disclosed to the Counsel for both Plaintiff and Defendants and noted in the proposed Judgment submitted to the Court.

56. Objection Procedures. To object to the Settlement, a Participating Class Member must postmark a valid Objection to the Settlement Administrator on or before the Response Deadline. The Objection must be signed by the Participating Class Member and contain all information required by this Settlement Agreement including the employee's full name, address, telephone number, last four digits of the employee's Social Security number or Employee Identification Number, as well as a written statement of all grounds for the objection accompanied by legal support, if any, for such objection. The postmark date will be deemed the exclusive means for determining that the Objection is timely. Participating Class Members who fail to object in the manner specified above will be foreclosed from making a written objection, but shall still have a right to appear at the Final Approval Hearing in order to have their objections heard by the Court. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Participating Class Members to submit written objections to the Settlement or appeal from the Order and Judgment. Class Counsel will not represent any Class Members with respect to any Objections to this Settlement.

57. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement Administrator will provide Defendants' Counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; (b) the number of Class Members who have submitted valid Objections; (c) the number

of Class Notices returned and re-mailed; and (d) whether any Class Member has submitted a challenge to any information contained in the Notice. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

58. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to Participating Class Members and PAGA Members will be negotiable for at least one hundred eighty (180) calendar days. If a Participating Class Member or PAGA Member does not cash his or her settlement check or PAGA payment check within 180 days, the uncashed funds, subject to Court approval, shall be distributed to Legal Aid at Work as a *cy pres* recipient in compliance with California Code of Civil Procedure § 384. The Individual Settlement Payments provided to Participating Class Members and to PAGA Members shall prominently state the expiration date or a statement that the Settlement Check will expire in one hundred eighty (180) days, or alternatively, such a statement may be made in a letter accompanying the Individual Settlement Payment.

59. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes and penalties to the appropriate government authorities.

60. Tax Liability. Defendants make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not relying on any statement, representation, or calculation by Defendants or by the Settlement Administrator in this regard. Plaintiff and Participating Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein. Defendants' share of any employer payroll taxes shall be paid from the Gross Settlement Amount.

61. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section, the "acknowledging party" and each Party to this Agreement other than the acknowledging party,

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

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

63. Release by Participating Class Members, PAGA Members, the LWDA, and the State of California. Upon the complete funding of the Gross Settlement Amount and entry of the Final Approval Order and Final Judgment by the Court, Participating Class Members shall fully release and discharge the Released Parties from any and all Released Claims for the Class Period. Upon the complete funding of the Gross Settlement Amount and entry of the Final Approval Order and Final Judgment by the Court, all PAGA Members, the LWDA, and State of California shall release claims arising under PAGA for the PAGA Period as set forth in the PAGA Release. The PAGA Release shall be effective for PAGA Members regardless of their decision to participate in the class settlement.

64. General Release by Plaintiff Ricardo Rodriguez-Alvarez Only. In addition to the

1 PAGA Release and Released Claims against Released Parties made by the Participating Class
2 Members, Named Plaintiff and his present and future representatives, attorneys, agents, heirs,
3 executors, administrators, and assigns and all those claiming by, through, or under them, and each
4 of them, in exchange for the Class Representative Incentive Payment as requested or as otherwise
5 authorized by the Court, will, as of the date the Settlement Administrator mails out the Individual
6 Settlement Payments to the Participating Class Members, makes the additional following General
7 Release of all Claims under Section 1542 of the California Civil Code, known or unknown, in
8 exchange and consideration of the sum set forth in Paragraph 10, *supra*. Named Plaintiff, and his
9 present and future representatives, attorneys, agents, heirs, executors, administrators, and assigns
10 and all those claiming by, through, or under them, and each of them, agrees to the General Release
11 of the Released Parties. Named Plaintiff, and his present and future representatives, attorneys,
12 agents, heirs, executors, administrators, and assigns and all those claiming by, through, or under
13 them, and each of them, also agrees to release the Released Parties from all wage and hour Claims,
14 including, but not limited to, minimum and overtime wages, meal and rest period premiums,
15 penalties under the Labor Code and Private Attorneys General Act and all other released claims
16 arising out of his employment with Defendants and separation from employment with Defendants,
17 including but not limited to FEHA, Contract, Wrongful Termination in Violation of Public Policy,
18 and Infliction of Emotional Distress claims. The General Release as to Named Plaintiff, and his
19 present and future representatives, attorneys, agents, heirs, executors, administrators, and assigns
20 and all those claiming by, through, or under them, and each of them, includes any unknown Claims
21 that Named Plaintiff does not know or suspect to exist in his favor at the time of the General
22 Release, which, if known by him, might have affected her settlement with, and release of, the
23 Released Parties or might have affected his decision not to object to this Settlement or the General
24 Release.

25 With respect to the General Release, Named Plaintiff stipulates and agrees that, upon entry
26 of the Final Approval Order and Final Judgment by the Court, Named Plaintiff shall be deemed to
27 have, and by operation of the Final Judgment shall have, expressly waived and relinquished, to the
28 fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California

Civil Code, or any other similar provision under federal or state law, which provides:

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

Named Plaintiff may hereafter discover facts in addition to or different from those he now knows or believes to be true with respect to the subject matter of the General Release, but Named Plaintiff upon the date the Settlement Administrator mails out the Individual Settlement Payments to the Participating Class Members shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released any and all of the claims released pursuant to the General Release whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

65. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any material term of this Settlement Agreement; or (c) the Settlement does not become final as written and agreed to by the Parties for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, all amounts deposited into the QSF will be returned to Defendants, and the Parties shall be returned to their original respective positions prior to entering this Agreement and/or any Memorandum of Understanding that predated this Agreement. Should the Court fail to approve this settlement for any reason, the Parties agree that they will meet and confer and return to and attend mediation with a mutually agreed Mediator, if necessary, in an effort to reach a settlement that may be approved by the Court.

66. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order for: (a) conditional certification of the Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final

1 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the Class
2 Notice to be sent to all Class Members as specified herein. In conjunction with the Preliminary
3 Approval hearing, Plaintiff will submit this Agreement, which sets forth the terms of the
4 Settlement, and will include the proposed Class Notice attached as **Exhibit A**. Defendants agree
5 that they will not oppose a Motion for Preliminary Approval based upon the terms of this
6 agreement. Counsel for Defendants will be given an opportunity to review and comment on the
7 motion for Preliminary Approval of the Settlement prior to its being filed with the Court and such
8 comments will be implemented to the extent reasonable. Any failure by the Court to fully and
9 completely approve the Agreement as to the Action will result in this Settlement Agreement and
10 the Memorandum of Understanding entered into by the Parties, and all obligations under this
11 Settlement Agreement and the Memorandum of Understanding being nullified and voided
12 pursuant to paragraph 66 of this Agreement.

13 67. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
14 deadlines to postmark Requests for Exclusion or Objections to the Settlement Agreement, and with
15 the Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to
16 determine the Final Approval of the Settlement Agreement along with the amounts properly
17 payable for: (a) Individual Settlement Payments; (b) the Attorneys' Fees and Costs; (c) the Class
18 Representative Incentive Payment; and (d) the Settlement Administration Costs. Class Counsel
19 will be responsible for drafting all documents necessary to obtain Final Approval. Counsel for
20 Defendants will be given an opportunity to comment on the motion for final approval of the
21 Settlement and Proposed Order and Judgment prior to its being filed with the Court and such
22 comments will be implemented to the extent reasonable. Any failure by the Court to fully and
23 completely approve the Settlement Agreement as to all of the Action, or the entry of any Order by
24 another Court with regard to any of the Action which has the effect of modifying material terms
25 of this Agreement or preventing the full and complete approval of the Settlement Agreement as
26 written and agreed to by the Parties, will result in this Agreement and all obligations under this
27 Agreement being null and void pursuant to paragraph 66 of this Agreement. Defendants agree they
28 shall not oppose the granting of the Motion for Final Approval based upon the terms of this

1 agreement, provided Defendants have not exercised their right to rescind pursuant to the terms of
2 this Agreement.

3 68. Final Approval Order and Final Judgment and Continued Jurisdiction. After entry
4 of the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a)
5 the interpretation and enforcement of the terms of the Settlement, (b) settlement administration
6 matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth
7 in this Settlement.

8 69. Exhibits Incorporated by Reference. The terms of this Settlement include the terms
9 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
10 herein. Any Exhibits to this Settlement are an integral part of the Settlement.

11 70. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute
12 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
13 agreements may be deemed binding on the Parties.

14 71. Amendment or Modification. This Settlement Agreement may be amended or
15 modified only by a written instrument signed by counsel for all Parties or their successors-in-
16 interest.

17 72. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
18 and represent they are expressly authorized by the Parties whom they represent to negotiate this
19 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
20 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
21 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
22 counsel will cooperate with each other and use their best efforts to affect the implementation of
23 the Settlement. If the Parties are unable to reach agreement on the form or content of any document
24 needed to implement the Settlement, or on any supplemental provisions that may become
25 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court
26 to resolve such disagreement. The Parties agree that, to the extent further modifications to the
27 Settlement Agreement are required, Class Counsel and Defendant's counsel may execute any
28 amendments and/or modifications to the Settlement Agreement on behalf of their respective

clients.

73. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, and be enforceable by the Parties' respective heirs, executors, administrators, representatives, successors, and assigns.

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

75. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile, electronic signature, and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

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

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

78. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except, however, that either Party may appeal any court order that materially alters the Settlement Agreement's terms.

79. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to class action certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. The Parties further agree

1 that certification for purposes of the Settlement is not an admission that class action certification
2 is proper under the standards applied to contested certification motions and that this Agreement
3 will not be admissible in this or any other proceeding as evidence that either: (a) a class action
4 should be certified or (b) Defendants are liable to Plaintiff or any Class Member, other than
5 according to the Settlement's terms.

6 80. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
7 dispute that has arisen between them and to avoid the burden, expense, and risk of continued
8 litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, that
9 they have violated any federal, state, or local law; violated any regulations or guidelines
10 promulgated pursuant to any statute or any other applicable laws, regulations, or legal
11 requirements; breached any contract; violated or breached any duty; engaged in any
12 misrepresentation or deception; or engaged in any other unlawful conduct with respect to their
13 employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations
14 connected with it, shall be construed as an admission or concession by Defendants of any such
15 violations or failures to comply with any applicable law. Except as necessary in a proceeding to
16 enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be
17 offered or received as evidence in any action or proceeding to establish any liability or admission
18 on the part of Defendants or to establish the existence of any condition constituting a violation of,
19 or a non-compliance with, federal, state, local, or other applicable law. Payment of wages does not
20 extend or alter the Class Member-claimants' period of employment for any purpose.

21 81. Captions. The captions and section numbers in this Agreement are inserted for the
22 reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the
23 provisions of this Agreement.

24 82. Waiver. No waiver of any condition or covenant contained in this Settlement
25 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered
26 to imply or constitute a further waiver by such party of the same or any other condition, covenant,
27 right or remedy.

28 83. Enforcement Action. In the event that one or more of the Parties institutes any legal

1 action or other proceeding against any other Party or Parties to enforce the provisions of this
2 Settlement or to declare rights and/or obligations under this Settlement, the successful Party or
3 Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees
4 and costs, including expert witness fees incurred in connection with any enforcement actions.

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

10 85. Representation by Counsel. The Parties acknowledge that they have been
11 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
12 and that this Agreement has been executed with the consent and advice of counsel and reviewed
13 in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
14 Agreement.

15 86. All Terms Subject to Final Court Approval. All amounts and procedures described
16 in this Settlement Agreement herein will be subject to final Court approval.

17 87. Cooperation and Execution of Necessary Documents. The Parties agree to
18 cooperate to promote participation in the Settlement, and in seeking court approval of the
19 Settlement. The Parties and their counsel agree not to take any action to encourage any Class
20 Members to opt out of and/or object to the Settlement. The Parties will work in good faith to reach
21 an agreement approved by the Court.

22 88. Confidentiality. The Parties and their counsel agree to keep the terms of the
23 Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Any
24 confidentiality associated with the terms of this Settlement shall expire upon the filing by Class Counsel of
25 the Motion for Preliminary Approval with the Court, except that the negotiations and discussions preceding
26 submission of the Settlement to the Court for preliminary approval shall remain strictly confidential, unless
27 otherwise agreed to by the Parties or unless otherwise ordered by the Court. Plaintiff and Class Counsel
28 agree not to issue a press release, or post anything on a website or any form of social media, or to advertise

any terms of the Settlement through written, recorded or other electronic communications. Plaintiff and Class Counsel further agree that if contacted by press regarding this case, they will only state that the lawsuit exists and has been resolved. This provision shall not prohibit class counsel from communicating with Class Members after preliminary approval is granted or if contacted by such Class Members.

89. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality provisions that otherwise might apply under federal or state law.

Dated: 11/7/2022

**PLAINTIFF RICARDO RODRIGUEZ-
ALVAREZ**

By: 
ID 1HR1Bae36hmB3gYTDjsptbAm
Ricardo Rodriguez-Alvarez

Dated: 11/14/2022

**DEFENDANT NORTHWEST
CONFECTIONS CALIFORNIA, LLC**

By: Gabe Parton Lee
Title: General Counsel

1 **APPROVED AS TO FORM:**

2
3 Dated: November 7, 2022

DIVERSITY LAW GROUP

4 By: 
5 Larry W. Lee
6 Max W. Gavron
7 Attorneys for Plaintiff Ricardo Rodriguez-Alvarez
8
9

10
11 Dated: 11/15/2022

LITTLER MENDELSON, P.C.

12 By: 
13 Curtis A. Graham
14 Attorneys for Defendant Northwest Confections
15 California, LLC
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EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Rodriguez-Alvarez v. Northwest Confections California, LLC

Superior Court of California, County of Sacramento, Case No. 34-2021-00300622

**THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A SOLICITATION.
PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.**

To: All current and former non-exempt employees of Northwest Confections California, LLC in the State of California at any time between May 12, 2017, and September 19, 2022.

BASIC INFORMATION

1. What is this settlement about?

A lawsuit was commenced by Ricardo Rodriguez-Alvarez (“Plaintiff”) against Northwest Confections California, LLC (“Defendant”) on May 12, 2021. The case is currently pending in the Superior Court of California, County of Sacramento, Case No. 34-2021-00300622.

The lawsuit claims that Defendant violated sections of the California Labor Code and California Business and Professions Code. Specifically, Plaintiff alleges that Defendants did not properly pay employees all wages owed for time worked including regular wages, minimum wages, and overtime wages, did not provide complete, accurate wage statements, and did not timely pay all wages owed at the end of employment. The settlement also seeks to recover penalties pursuant to the California Private Attorneys General Act (“PAGA”). The lawsuit claims that the Defendant violated the California Labor Code and the California Business and Professions Code, entitling Class Members to, *inter alia*, damages, penalties, and restitution. Defendant denies all alleged violations and denies that they owe Class Members any remedies. The Court has not made a ruling on the merits of the case.

2. Why is this a class action?

In a class action, one or more people called the Class Representative sue on behalf of people who appear to have similar claims. All these people are referred to here as Class Members. In a class action one court resolves the issues for all Class Members in one lawsuit, except for those who exclude themselves from the Class. The Sacramento County Superior Court is in charge of this class action.

3. Why is there a settlement?

The Court has not decided in favor of the Plaintiff or Defendant. Instead, both sides agreed to a settlement which is memorialized in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement”). On [DATE OF PRELIMINARY APPROVAL] the Court granted preliminary approval of the Settlement, appointed Plaintiff Ricardo Rodriguez-Alvarez as the Class Representative, and appointed his attorneys at Diversity Law Group, P.C. and Webber Law Group as counsel for the Class (“Class Counsel”).

The Class Representative and Class Counsel think the Settlement is a fair, adequate, and reasonable proposed resolution.

WHO IS IN THE SETTLEMENT?

4. How do I know if I am part of the settlement?

You are part of the Settlement, and a Class Member, if you are or were employed by Defendant as a non-exempt employee in the State of California at any time between May 12, 2017, and September 19, 2022.

THE SETTLEMENT BENEFITS—WHAT YOU GET

5. What does the settlement provide?

The Settlement provides that Defendant will pay a maximum of Two Hundred Fifty-Seven Thousand Five Hundred Dollars (\$257,500.00) (“Gross Settlement Amount”). This includes all costs and attorneys’ fees for Class Counsel.

The “Net Settlement Amount” is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts (which are subject to Court approval):

- A. **Attorneys’ Fees to Class Counsel** not to exceed 33 1/3% of the Gross Settlement Amount or Eighty-Five Thousand Eight Hundred Thirty-Three Dollars and Thirty-Three Cents (\$85,833.33);
- B. **Litigation Costs/Expenses to Class Counsel** not to exceed Twenty-Five Thousand Dollars (\$25,000.00);
- C. **Class Representative Incentive Payment** in an amount not to exceed Ten Thousand Dollars (\$10,000.00);
- D. **Settlement Administration Costs** which are currently estimated to be Eight Thousand Nine Hundred and Fifty Dollars (\$8,950.00); and
- E. **PAGA Payment** in the amount of Five Thousand Dollars (\$5,000.00) for the settlement of claims arising under the Private Attorneys General Act of 2004 (“PAGA”). Seventy-five percent (75%) of this amount (\$3,750.00) shall be paid to the California Labor and Workforce Development Agency. The remaining twenty-five percent (25%) (\$1,250.00) will be distributed to non-exempt employees who worked for Defendant in the State of California from April 16, 2020, to September 19, 2022, for the release of their claims as set forth in the PAGA Release, described below in Section 7.

The amount you are eligible to receive from the settlement, your “Individual Settlement Payment” will be determined on a *pro rata* basis, based on the number of Pay Periods you worked in California as a non-exempt employee of Defendant from May 12, 2017, to September 19, 2022 (“Pay Periods”). Your Individual Settlement Payment includes both your estimated share of the Net Settlement Amount and, if eligible, your share of the PAGA Payment.

[ONLY FOR PAGA MEMBERS]: Your share of the PAGA Payment is calculated on a *pro rata* basis based on the total number of Pay Periods (full or partial) worked by each PAGA Member during the PAGA Period, which is from April 16, 2020, through September 19, 2022.]

Your Individual Settlement Payment will be apportioned as twenty percent (20%) wages, twenty percent (20%) interest, and sixty percent (60%) penalties. The wage portion of the Individual Settlement Payment will be subject to withholding for the employee taxes and will be reported on a W-2 Form. Employer-side payroll taxes shall be paid from the Gross Settlement Amount. The penalties and interest portions of each Class Member's settlement payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

You worked XXX Pay Periods during the Class Period. Your Individual Settlement Payment is \$XXX.XX. The amount of the payment may change depending on the number of timely and valid requests for exclusions submitted in the Settlement, if any.

This Amount was determined based on Defendant's record of your employment between May 12, 2017, and September 19, 2022, and is presumed correct. If you dispute the accuracy of Defendant's records as to the number of Pay Periods worked during the Class Period, you must contact the Settlement Administrator and provide any documentation you have supporting such dispute by [DATE]. All disputes regarding your Pay Periods will be resolved and decided by the Parties or if the Parties cannot agree, the Court, after you submit evidence to the Settlement Administrator. The Settlement Administrator's contact information is listed below:

[Settlement Administrator]

[Address]

[Telephone No.]

[Fax No.]

HOW TO GET A PAYMENT FROM THE SETTLEMENT

6. How can I get a payment?

You do not have to do anything to qualify for a payment of your portion of the Settlement.

7. What am I giving up if I do not request to be excluded from the Settlement?

Upon the funding of the Gross Settlement Amount by Defendant and entry of Final Approval Order and Final Judgment by the Court, in exchange for the consideration set forth by the Settlement, Class Members who do not submit a timely request for exclusion will release the "Released Parties" from the "Released Claims" for the "Class Period."

The "Released Parties" means Defendant Northwest Confections California, LLC as named by Plaintiff in the operative complaint, and its past, present and/or future, direct and/or indirect, stockholders, shareholders, members, directors, managers, officers, employees, agents, representatives, attorneys, insurers, reinsurers, partners, investors, lenders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

The “Released Claims” means all claims, rights, demands, liabilities and causes of action that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the operative complaint in this action including the following claims: (i) failure to pay overtime and/or minimum wages; (ii) failure to provide complete, accurate wage statements or disclosures; (iii) failure to pay all vacation wages at separation of employment; (iv) failure to timely pay wages upon separation of employment; (v) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (vi) all claims under the California Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698, *et seq.*) or for civil penalties that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint including Labor Code §§ 201, 202, 203, 204, 226, 227.3, 510, 558, 1194, 1197, 1197.1, and 2699, and the relevant Wage Orders issued by the Industrial Welfare Commission; and (vii) all claims for attorneys’ fees and costs as provided for the preceding causes of action, including those provided by Labor Code §§ 218.5, 226, 1194, and 2699, Business & Professions Code §§ 17200, *et seq.*, and Code of Civil Procedure § 1021.5. This release shall apply to claims arising during the Class Period.

The “Class Period” during which the release of Released Claims pertains is from May 12, 2017, to September 19, 2022.

All Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all of the claims articulated in the “PAGA Release” with respect to all of the Released Parties irrespective of whether a Class Member submits a request for exclusion.

“PAGA Release” means the following release: Upon remittance of the Gross Settlement Amount by Defendants to the Settlement Administrator and entry of judgment by the Court, PAGA Members will fully and finally release and discharge Defendants from all claims, rights, demands, liabilities and causes of action that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the PAGA letter, dated April 15, 2021, under the PAGA, Cal. Lab. Code §§ 2698, *et seq.*, which are premised on alleged violations of the California Labor Code for: (i) failure to pay overtime and/or minimum wages; (ii) failure to provide complete, accurate wage statements or disclosures; (iii) failure to pay all vacation wages at separation of employment; (iv) failure to timely pay wages upon separation of employment, including but not limited to Labor Code §§ 201, 202, 203, 204, 226, 227.3, 510, 558, 1194, 1197, 1197.1, and 2699, and the relevant Wage Orders issued by the Industrial Welfare Commission; and (v) all claims for attorneys’ fees and costs as provided by the PAGA.

EXCLUDING YOURSELF FROM THE RELEASE OF NON-PAGA CLAIMS

If you want to keep the right to sue or continue to sue Released Parties with respect to the Released Claims (other than those which fall within the definition of the PAGA Release), then you must submit a request for exclusion in conformity with the requirements set forth herein. If you exclude yourself, you will not receive your share of payment from the Net Settlement Amount. However, if eligible, you will still receive a payment in an amount equal to your estimated *pro rata* share of the PAGA Payment because the Request for Exclusion does not apply to this claim.

8. How do I exclude myself from the Settlement?

To exclude yourself from the release of Released Claims you must submit a written request for exclusion. You must include your name, address, telephone number, and the last four digits of your Social Security number and/or Employee Identification Number. Your request for exclusion must also include a statement that you do not wish to be included in this action similar to the following: “I wish to exclude myself from the class action settlement reached in the matter of *Rodriguez-Alvarez v. Northwest Confections*. I understand that by excluding myself I will not receive money from the class portion of the settlement.”

The written for Exclusion must be mailed to the Settlement Administrator at the address listed below, post-marked by [DATE]. You cannot exclude yourself by phone.

[Settlement Administrator]

[Address]

[Telephone No.]

[Fax No.]

If you ask to be excluded, you will not receive payment of any portion of the Net Settlement Amount and you cannot object to the Settlement. You may still receive a portion of the PAGA Payment if you worked between April 16, 2020, and September 19, 2022, because the request for exclusion does not apply to the PAGA Release. You will not be legally bound by the release of Released Claims (except for Released Claims that fall within the definition of the PAGA Release).

If you exclude yourself, you may be able to sue Defendant and/or the Released Parties or continue any suit you have pending against Defendant or the Released Parties, regarding the Released Claims (except for Released Claims that fall within the definition of the PAGA Release).

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

The Court has approved DIVERSITY LAW GROUP, P.C. and WEBBER LAW GROUP as Class Counsel. Their contact information is:

DIVERSITY LAW GROUP, P.C.

Larry W. Lee, Esq.
Max W. Gavron, Esq.
515 S. Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213)488-6555

WEBBER LAW GROUP

Kelsey A. Webber, Esq.
333 University Ave, Suite 200
Sacramento, California 95825
Telephone: (916) 588-0683

Class Counsel will ask the Court for attorneys’ fees of up to \$85,833.33 and reimbursement of litigation cost/expenses of up to \$25,000.00. These amounts are subject to Court approval and the Court may award less than these amounts.

OBJECTING TO THE SETTLEMENT

10. What if I want to object to this Settlement?

If you are a Class Member, you can object to the Settlement and you can give reasons for why you think the Court should not approve it. The Court will consider your views. To object, you must mail your objection to the Settlement Administrator no later than [DATE]. Your objection must include your full name, address, telephone number, the last four digits of your Social Security number or Employee Identification Number, and the specific reason for your objection. You may also come to the Final Approval Hearing on [DATE] and make an objection at that time, regardless of whether you submitted a written objection.

11. What is the difference between objecting and excluding?

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

THE COURT'S FAIRNESS HEARING

12. When and where will the Court decide whether to approve the Settlement?

The Court will hold a hearing to decide whether to grant final approval of the Settlement ("Final Approval Hearing"). You may attend, but you do not have to attend. The Court will hold the Final Approval Hearing at [] a.m./p.m. on [], 2022] in Department 54 of the Sacramento County Superior Court, located at 720 Ninth Street, Sacramento, California 95814.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and determine whether to grant final approval of the Settlement. If there are objections, the Court will consider them.

13. Do I have to attend the hearing?

No. If you agree to the Settlement you do not have to come to Court to talk about it. However, you may attend. You may also retain your own lawyer at your expense to attend on your behalf. You may attend in person, but you may also attend remotely if you wish. Further information regarding how to appear remotely can be found here: <https://www.saccourt.ca.gov/civil/civil.aspx>. You may also call Class Counsel for more information.

14. How will I learn if the settlement was approved

A notice of final judgment will be posted on the Settlement Administrator website located at www. com. You will also receive your portion of the settlement if you choose to not to exclude yourself.

IF YOU DO NOTHING

15. What happens if I do nothing at all?

If you do nothing, you will receive your share of the Settlement, and you will release the Released Claims. You will not be able to participate in any other lawsuit against Defendants or Released Parties about the Released Claims. Your Individual Settlement Payment will be mailed to you and remain valid and negotiable for 180 days. If you do not cash your settlement check within 180 days, these funds will be transferred to Legal Aid at Work, a non-profit legal services organization.

GETTING MORE INFORMATION**16. How do I get more information?**

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by contacting the Settlement Administrator or Class Counsel.

WHAT IF MY INFORMATION CHANGES?**17. What if my contact information changes?**

It is your responsibility to inform the Settlement Administrator of your updated information to ensure receipt of settlement payments or communications regarding this matter. You can change or update your contact information by contacting the Settlement Administrator.

**DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE
LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE**

EXHIBIT B