

DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
GAINES & GAINES, APLC
4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

Attorneys for Plaintiff Sheldon Walker on behalf of himself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

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

SHELDON WALKER, on behalf of himself
and all “aggrieved employees” pursuant to
Labor Code § 2698 *et seq.*,

Plaintiffs,

v.

FOLSOM LAKE FORD, INC., a California
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: 34-2021-00304667

Assigned to the Hon. Lauri A. Damrell, Dept. 28

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF
DANIEL F. GAINES IN SUPPORT OF
MOTION FOR AN ORDER APPROVING
SETTLEMENT OF CLAIMS BROUGHT
PURSUANT TO THE PRIVATE
ATTORNEYS GENERAL ACT OF 2004,
AWARDING ATTORNEYS’ FEES, COSTS,
SERVICE AWARD, AND
REIMBURSEMENT OF SETTLEMENT
ADMINISTRATION EXPENSES, AND
ENTERING JUDGMENT THEREON**

Date: September 1, 2023

Time: 9:00 a.m.

Dept.: 28

Action Filed: July 21, 2021

1 I, DANIEL F. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I am
3 a shareholder of Gaines & Gaines, APLC, counsel for Plaintiff Sheldon Walker ("Plaintiff") and
4 proposed Class Counsel in this action. I have personal knowledge of the facts set forth herein and
5 if called as a witness to testify to them, I could and would do so competently.

6 2. Attached hereto as **Exhibit A** is a true and correct copy of the Court's July 20, 2023
7 Tentative Ruling (the "Ruling") regarding Plaintiff's Unopposed Motion For An Order Approving
8 Settlement Of Claims Brought Pursuant To The Private Attorneys General Act Of 2004, Awarding
9 Attorneys' Fees, Costs, Service Award, And Reimbursement Of Settlement Administration
10 Expenses, And Entering Judgment Thereon.

11 3. Attached hereto as **Exhibit B** is a true and correct copies of the email confirmations
12 from the LWDA for the original Settlement Agreement and original Motion and supporting papers
13 (submitted on March 16, 2023), the revised Motion and supporting papers (submitted on May 18,
14 2023), and the Amended Settlement Agreement and these supplemental papers (submitted on
15 August 16, 2023).

16 4. The Parties jointly prepared the First Amended Joint Stipulation for Settlement (the
17 "Amended Settlement" or "Amended Settlement Agreement"). A true and correct copy of the
18 Amended Settlement is attached hereto as **Exhibit C**. A true and correct copy of the redlined
19 changes made between the original Settlement Agreement and the Amended Settlement is attached
20 hereto as **Exhibit D**.

21 5. The Parties jointly prepared the Amended Cover Letter ("Amended Cover Letter").
22 A true and correct copy of the Amended Cover Letter is attached to **Exhibit C** as Exhibit A. A true
23 and correct copy of the Redlined Amended Cover Letter is attached to **Exhibit D** as Exhibit A.

24 I declare, under penalty of perjury, under the laws of the State of California, that the
25 foregoing is true and correct. Executed on August 16, 2023 at Westlake Village, California

26
27 
28 DANIEL F. GAINES

EXHIBIT A

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

34-2021-00304667-CU-OE-GDS: Sheldon Walker vs. Folsom Lake Ford Inc a California corporation

07/21/2023 Hearing on Motion for Preliminary Approval of Settlement PAGA in Department 28

Tentative Ruling

On the Court's own motion, the Hearing on Motion for Preliminary Approval of Settlement PAGA scheduled for 07/21/2023 is continued to 09/01/2023 at 09:00 AM in Department 28 at Gordon D. Schaber Superior Court.

Plaintiff Sheldon Walker ("Plaintiff") is expected to address the issues identified below by filing supplemental briefs and/or declarations no later than August 16, 2023.

If either party is unavailable on **September 1, 2023 at 9:00 AM**, the parties shall meet and confer to identify three other Fridays at 9:00 AM that work for the parties to schedule the Preliminary Approval hearing. They shall submit those dates to the Court via email at Dept28@saccourt.ca.gov, and the Court will reschedule the hearing accordingly. If the Court reschedules the hearing, the deadlines for the supplemental briefs stated above will not change.

Background

On May 21, 2021, Plaintiff gave written notice by online filing with the Labor and Workforce Development Agency ("LWDA") and by certified mail, return receipt requested, to Defendant Folsom Lake Ford, Inc. ("Defendant") of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violation. (Gaines Decl., ¶¶ 6-7, Exh. B.) On July 21, 2021, and after the LWDA declined to act within the statutorily permissible time, Plaintiff filed his representative action complaint in this Court. (*Id.*, ¶ 6.)

Plaintiff now seeks approval of the Parties' Settlement Agreement and Release of PAGA Claims. (Gaines Decl., Exh. C ("SA"). Counsel attests that concurrent with the filing of this motion, Plaintiff submitted a copy of the proposed settlement to the Labor and Workforce Development Agency ("LWDA"). (Gaines Decl., ¶ 11.)

Legal Standard

The purpose of PAGA is to "create a means of 'deputizing' citizens as private attorneys general to enforce the Labor Code." (*Brown v. Ralphs Grocery Co.* (2011) 197 Cal.App.4th 489, 501.) A PAGA plaintiff is an "aggrieved employee" who brings a civil action "personally and on behalf of other current or former employees to recover civil penalties for Labor Code violations" as the "proxy or agent of the state's labor law enforcement agencies." (*Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348, 380; Labor Code, § 2699.) The settlement of a PAGA claim requires court approval pursuant to the operative PAGA statute, which states that the "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

34-2021-00304667-CU-OE-GDS: Sheldon Walker vs. Folsom Lake Ford Inc a California corporation

07/21/2023 Hearing on Motion for Preliminary Approval of Settlement PAGA in Department 28

part.” (Lab. Code, § 2699(l)(2).) Such review and approval must “ensur[e] that any negotiated resolution is fair to those affected.” (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549.)

Aside from the requirement that the court “review and approve” a settlement in a civil action filed under PAGA (§ 2699, subd. (l)(2)), PAGA itself does not provide a standard for this review and approval in the majority of PAGA cases. (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 75 (*Moniz*) [citing *Flores v. Starwood Hotels & Resorts Worldwide* (C.D.Cal. 2017) 253 F.Supp.3d 1074, 1075 [“[PAGA] is surprisingly short on specifics”]].) In *Moniz*, the First District Court of Appeal clarified that a trial court “should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA’s purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.” (*Id.* at p. 77.) Because many of the factors used to evaluate class action settlements bear on a settlement’s fairness – including the strength of the plaintiff’s case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount – these facts can be useful in evaluating the fairness of a PAGA settlement. (*Ibid.*)

Analysis

Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement Amount (“GSA”) of \$650,000. (SA, ¶ III.2.) The following amounts will be paid from the GSA:

- Attorneys’ fees not to exceed 35% of the GSA, or \$227,500 and litigation expenses not to exceed \$10,000 (*id.*, ¶¶ III.2 and III.4.a);
- Settlement administration costs not to exceed \$7,500 (*id.*, ¶¶ III.2 and III.4.c);
- Plaintiff’s enhancement payment not to exceed \$10,000 (*id.*, ¶¶ III.2 and III.4.b).

The remaining amount – the Net Settlement Amount (“NSA”) – of approximately \$395,000 will be allocated to the LWDA and the Aggrieved Employees. 75% of this amount or \$296,250 will be distributed to the LWDA and 25% or \$98,750 will be distributed to the Aggrieved Employees, based on each Aggrieved Employee’s respective number of Affected Pay Periods worked during the PAGA Period. (SA, ¶¶ III.4 and III.5; Gaines Decl., ¶ 17.)

The Aggrieved Employees are defined as “all non-exempt individuals employed by Folsom Lake Ford, Inc. (“Defendant”) and PFLK, Inc. doing business as Folsom Lake Kia, Inc. (“PFLK, Inc.”) during the time period May 21, 2020 to October 10, 2022 (“PAGA Period” as defined in Paragraph 10).” (SA, ¶¶ I.2, I.10.) The Aggrieved Employees are estimated to consist of approximately 425 individuals who worked approximately 10,809 pay periods during the period May 21, 2020 through May 31, 2022. Defendant extrapolates the number of Pay Periods from May 21, 2020 through the date of the Parties’ mediation on August 11, 2022 to be approximately 11,882. (SA, ¶ III.3; Gaines Decl., ¶ 16.) Plaintiff estimates that the average individual payment to Aggrieved Employees would be \$232.42. (Gaines Decl., ¶ 17.)

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

34-2021-00304667-CU-OE-GDS: Sheldon Walker vs. Folsom Lake Ford Inc a California corporation

07/21/2023 Hearing on Motion for Preliminary Approval of Settlement PAGA in Department 28

No later than 10 days after the Court approves the Agreement, Defendant shall provide a list identifying the Aggrieved Employees. (SA, ¶ IV.2.) Defendant shall fund the GSA within 30 days of Court approval of the Settlement. (SA, ¶ III.2.) Within 21 days after the TSP is fully funded, the Settlement Administrator shall distribute mail copies of the explanatory cover letter and the Individual PAGA Payments to the Aggrieved Employees. (*Id.*, ¶ IV.3.) If any individual payment is returned as non-deliverable with no forwarding address, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace search to locate an updated address and re-mail the check if possible. (*Id.*, IV.4.) Individual settlement checks will remain valid and negotiable for 180 days from the date of mailing. After 180 days, any uncashed checks will be paid to the California State Controller's Office Unclaimed Property Fund in the name of the Aggrieved Employee. (*Ibid.*)

Issues to Address

1. Plaintiff shall provide proof of his submission of the proposed settlement to the LWDA, such as a copy of the email from the LWDA confirming receipt.
2. The Court orders that the Cover Letter must include the following language at the top in bold letters, **"This settlement does not release any individual claims that you might have against Defendants outside of PAGA."**
3. The Court is concerned about the scope of the release in this case. The Settlement Agreement provides that "Plaintiff agrees that upon entry of an Order approving the Settlement and entering judgment thereon, and the Settlement being fully funded, Plaintiff and all Aggrieved Employees will fully and finally release any and all PAGA Released Claims against [the Released Parties] that arose during the PAGA Period. Upon entry of the Order approving the settlement and judgment entered thereon, and the Settlement being fully funded, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties." (SA, § III.6.) "PAGA Released Claims" is defined as "all claims for PAGA civil penalties predicated on Defendant's and PFLK, Inc.'s alleged failure to (1) pay wages due, including minimum wage and overtime; (2) provide written commission agreements; (3) provide missed meal and rest break premiums; (4) maintain meal period records; (5) provide accurate wage statements; and (6) provide all wages due at the time of termination *based on the facts and theories alleged in Plaintiff's May 21, 2021 notice to the Labor and Workforce Development Agency and in the Action*, including claims for PAGA civil penalties based on alleged violations of California Labor Code sections 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 2750, 2751, and related alleged violations of the California Industrial Commission Wage Orders, that occurred during the PAGA Period." (SA, § I.11, emphasis added.) While the release is appropriately

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

34-2021-00304667-CU-OE-GDS: Sheldon Walker vs. Folsom Lake Ford Inc a California corporation

07/21/2023 Hearing on Motion for Preliminary Approval of Settlement PAGA in Department 28

limited to the PAGA Period of May 21, 2020 through October 10, 2022 (*id.*, § I.10), it encompasses “all claims for PAGA civil penalties predicated on ... the facts and theories alleged in Plaintiff’s May 21, 2021 notice” to the LWDA. The release should be limited to the factual allegations in Plaintiff’s notice letter and those claims that are reasonably related to or arising from them, not the theories alleged. (See *Amaro v. Anaheim Management* (2021) 69 Cal.App.5th 521, 541, fn. 5; *Uribe v. Crown Building Maintenance Co.* (2021) 70 Cap.App.5th 986, 1005.) The Parties are expected to meet and confer regarding the Court’s concerns.

4. Counsel requests an attorney’s fee award of up to 35% of the GSA or \$227,500. (SA, § III.4.a.) Counsel attests that the final projected lodestar for his firm is \$121,437.50. (Gaines Decl., ¶ 22, Exh. D.) Counsel attests that this requires a multiplier of approximately 1.87. (*Id.*, ¶ 22.) Absent compelling justification in Plaintiff’s further briefing, the Court is unable to conclude that the particular circumstances of this case required more work, carried more risk, or resulted in a better outcome than similar cases where the Court found an award of one-third of the common fund was appropriate. Accordingly, the Court would be inclined to award no more than one-third of the GSA or \$216,666.67. Such an award would still require a multiplier of 1.78 based on Counsel’s lodestar.

This minute order is effective immediately. No formal order or other notice is required. (Code Civ. Proc., § 1019.5; Cal. Rules of Court, rule 3.1312.)

To request oral argument on this matter, you must call Department 28 at (916) 874-6695 by 4:00 p.m., the court day before this hearing and notification of oral argument must be made to the opposing party/counsel. If no call is made, the tentative ruling becomes the order of the court. (Local Rule 1.06.)

Parties requesting services of a court reporter may arrange for private court reporter services at their own expense, pursuant to Government code §68086 and California Rules of Court, Rule 2.956. Requirements for requesting a court reporter are listed in the Policy for Official Reporter Pro Tempore available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-6a.pdf>. The list of Court Approved Official Reporters Pro Tempore is available at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-13.Pdf>.

*If you are not using a reporter from the Court’s Approved Official Reporter Pro Tempore list, a Stipulation and Appointment of Official Reporter Pro Tempore (CV/E-206) must be signed by each party, the private court reporter, and the Judge. **The signed form must be filed with the clerk prior to the hearing.***

If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

34-2021-00304667-CU-OE-GDS: Sheldon Walker vs. Folsom Lake Ford Inc a California corporation

07/21/2023 Hearing on Motion for Preliminary Approval of Settlement PAGA in Department 28

Request for Court Reporter by a Party with a Fee Waiver (CV/E-211). The form must be filed with the clerk at least 10 days prior to the hearing or at the time the hearing is scheduled if less than 10 days away. Once approved, the clerk will forward the form to the Court Reporter's Office and an official reporter will be provided.

If oral argument is requested, the Parties are encouraged to appear via Zoom with the links below:

To join by Zoom link - <https://saccourt-ca-gov.zoomgov.com/my/sscdept28>

To join by phone dial (833) 568-8864 ID 16039062174

Counsel for Plaintiff is directed to notice all parties of this order.

Please note that the Complex Civil Case Department now provides information to assist you in managing your complex case on the Court website at <https://www.saccourt.ca.gov/civil/complex-civil-cases.aspx>. The Court strongly encourages parties to review this website regularly to stay abreast of the most recent complex civil case procedures. Please refer to the website before directly contacting the Court Clerk for information.

EXHIBIT B

From: [Amelia Booth](#)
To: [Office](#)
Subject: Walker v FLF 1/2 FW: Thank you for your Proposed Settlement Submission
Date: Thursday, March 16, 2023 3:16:11 PM

Settlement Agreement

Best,
Amelia Booth
Paralegal

4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Toll Free (866) 550-0855
Phone (818) 703-8985
Fax (818) 703-8984
amelia@gaineslawfirm.com

ALL CLIENT RIGHTS RESERVED. CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender. Please destroy the original transmission and its attachments without reading or saving in any manner. Thank you.

-----Original Message-----

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Thursday, March 16, 2023 3:16 PM
To: Amelia Booth <amelia@gaineslawfirm.com>
Subject: Thank you for your Proposed Settlement Submission

03/16/2023 03:15:12 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

From: [Amelia Booth](#)
To: [Office](#)
Subject: Walker v FLF 2/2 FW: Thank you for your Other Response or Document Submission
Date: Thursday, March 16, 2023 3:16:45 PM

Motion and PO

Best,
Amelia Booth
Paralegal

4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Toll Free (866) 550-0855
Phone (818) 703-8985
Fax (818) 703-8984
amelia@gaineslawfirm.com

ALL CLIENT RIGHTS RESERVED. CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender. Please destroy the original transmission and its attachments without reading or saving in any manner. Thank you.

-----Original Message-----

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Thursday, March 16, 2023 3:16 PM
To: Amelia Booth <amelia@gaineslawfirm.com>
Subject: Thank you for your Other Response or Document Submission

03/16/2023 03:15:56 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Other Response or Document Submission If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

From: [Amelia Booth](#)
To: [Office](#)
Subject: Walker v. FLF 1/2 FW: Thank you for your Other Response or Document Submission
Date: Thursday, May 18, 2023 12:08:52 PM

Motion, PO, Dec of Service

Best,
Amelia Booth
Paralegal

4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Toll Free (866) 550-0855
Phone (818) 703-8985
Fax (818) 703-8984
amelia@gaineslawfirm.com

ALL CLIENT RIGHTS RESERVED. CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender. Please destroy the original transmission and its attachments without reading or saving in any manner. Thank you.

-----Original Message-----

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Thursday, May 18, 2023 12:07 PM
To: Amelia Booth <amelia@gaineslawfirm.com>
Subject: Thank you for your Other Response or Document Submission

05/18/2023 12:05:54 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Other Response or Document Submission If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

From: [Amelia Booth](#)
To: [Office](#)
Subject: Walker v. FLF 2/2 FW: Thank you for your Other Response or Document Submission
Date: Thursday, May 18, 2023 12:09:27 PM

DFG Dec and Walker Dec

We already uploaded the Settlement Agreement when we filed the first Motion.

Best,
Amelia Booth
Paralegal

4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Toll Free (866) 550-0855
Phone (818) 703-8985
Fax (818) 703-8984
amelia@gaineslawfirm.com

ALL CLIENT RIGHTS RESERVED. CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender. Please destroy the original transmission and its attachments without reading or saving in any manner. Thank you.

-----Original Message-----

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Thursday, May 18, 2023 12:08 PM
To: Amelia Booth <amelia@gaineslawfirm.com>
Subject: Thank you for your Other Response or Document Submission

05/18/2023 12:07:48 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Other Response or Document Submission If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT C

FIRST AMENDED JOINT STIPULATION
FOR SETTLEMENT

This First Amended Joint Stipulation for Settlement ("Settlement Agreement") is reached by and between Plaintiff Sheldon Walker ("Plaintiff"), acting in a private attorney general capacity, and Defendant Folsom Lake Ford, Inc. ("Defendant") (collectively, the "Parties").

I. DEFINITIONS

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. "Action" means the matter entitled *Sheldon Walker v. Folsom Lake Ford, Inc., et al.*, pending in the Sacramento Superior Court, Case No. 34-2021-00304667, and the facts, claims, and allegations set forth in Plaintiff's correspondence to the California Labor and Workforce Development Agency ("LWDA Letter") dated May 21, 2021.

2. "Aggrieved Employees" are comprised of all non-exempt individuals employed by Folsom Lake Ford, Inc. ("Defendant") and PFLK, Inc. doing business as Folsom Lake Kia, Inc. ("PFLK, Inc.") during the time period May 21, 2020 to October 10, 2022 ("PAGA Period" as defined in Paragraph 10).

3. "Complaint" means the operative Representative Action Complaint, filed in the Action on July 21, 2021.

4. "Court" means the Superior Court of California for the County of Sacramento.

5. "Gross Settlement Amount" or "GSA" is the non-reversionary sum of Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000.00) (subject to the Escalator Provision below), which represents the total amount payable under this Settlement Agreement by Defendant, including, without limitation, Individual PAGA Payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff's attorneys' fees and costs, payment of Plaintiff's Service Award, and payment to the Settlement Administrator for Administration Costs.

6. "Individual PAGA Payment" means the amount to be paid to each Aggrieved Employee based on the formula described herein.

7. "LWDA" means the California Labor and Workforce Development Agency.

8. "Net Settlement Amount" is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts, if approved by the Court, are subtracted from the Gross Settlement Amount: (a) Plaintiff's attorneys' fees up to one-third of the Gross Settlement Amount; (b) Plaintiff's litigation costs up to \$10,000.00; (c) Plaintiff's Service Award up to \$10,000.00; and (d) Administration Costs, which are estimated at \$7,500.00.

9. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

10. "PAGA Period" means the time period from May 21, 2020 through October 10, 2022.

11. “PAGA Released Claims” mean all claims for PAGA civil penalties reasonably arising out of or related to the facts alleged in Plaintiff’s May 31, 2021 notice to the Labor and Workforce Development Agency and in the Action, including claims predicated on Defendant’s and PFLK, Inc.’s alleged failure to (1) pay wages due, including minimum wage and overtime; (2) provide written commission agreements; (3) provide missed meal and rest break premiums; (4) maintain meal period records; (5) provide accurate wage statements; and (6) provide all wages due at the time of termination, and including claims for PAGA civil penalties based on alleged violations of California Labor Code sections 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 2750, 2751, and related alleged violations of the California Industrial Commission Wage Orders, that occurred during the PAGA Period.

12. “Parties” mean Plaintiff and Defendant.

13. “Plaintiff’s Counsel” means Gaines & Gaines, APLC.

14. “Settlement Administrator” means Phoenix Class Action Administration Solutions.

II. RECITALS

1. Plaintiff worked for Defendant as a non-exempt Salesperson during the PAGA Period and is therefore an Aggrieved Employee.

2. On May 21, 2021, Plaintiff provided written notice to the LWDA (via its website) and Defendant (via certified mail) asserting claims for civil penalties under the PAGA stemming from alleged violations of California Labor Code sections 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 2750, 2751, and related alleged violations of the California Industrial Commission Wage Orders for failing to (1) pay wages due, including minimum wage and overtime; (2) provide written commission agreements; (3) provide missed meal and rest break premiums; (4) maintain meal period records; (5) provide accurate wage statements; and (6) provide all wages due at the time of termination.

3. On July 21, 2021, Plaintiff filed the Action, which asserts a claim for civil penalties under the PAGA based on the aforementioned alleged violations.

4. In connection with mediation, Defendant provided Plaintiff’s Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees in order for Plaintiff’s Counsel to investigate Plaintiff’s allegations and value the claims prior to mediation.

5. On August 11, 2022, the Parties participated in mediation before the Honorable Raul Ramirez (retired). With the assistance of Judge Ramirez, the Parties agreed to fully and finally resolve the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **No Admission**. Nothing in this Settlement Agreement shall be construed to be an admission by Plaintiff that his claims do not have merit, or by Defendant of any liability or wrongdoing as to Plaintiff, Aggrieved Employees or any other person, and Defendant specifically

disclaims any such liability or wrongdoing. Defendant does not admit to liability or to the suitability of this case for representative litigation other than for purposes of settlement. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related court documents or orders are not, and may not be cited or admitted as, evidence of liability. If the Arbitrator and/or Court does not grant approval of this settlement, then the Parties agree to re-negotiate in good faith in an effort to obtain approval of the settlement.

2. **Gross Settlement Amount.** The Parties agree to settle the Action for the non-reversionary Gross Settlement Amount (“GSA”) of \$650,000.00 (subject to the Escalator Provision below). From the GSA, Plaintiff will seek, and Defendant shall not oppose: (a) attorneys’ fees of up to one-third of the GSA; (b) attorneys’ litigation costs and expenses related to the Action of up to \$10,000.00; (c) settlement Administration Costs of approximately \$7,500.00; and (d) a Service Award to Plaintiff in the amount of \$10,000.00. After the amounts for attorneys’ fees, costs, Administration Costs, and Service Award are deducted from the GSA, the remaining amount shall be known as the “Net Settlement Amount.” Defendant shall deposit the full amount of the GSA into an account to be established by the Settlement Administrator, within thirty (30) days of Court approval of the Settlement.

3. **Escalator Clause.** The Aggrieved Employees are estimated to consist of approximately 425 individuals who worked approximately 10,809 Pay Periods for the period May 21, 2020 through May 31, 2022. Defendant extrapolates the number of Pay Periods from May 21, 2020 through the date of the Parties’ mediation on August 11, 2022 to be approximately 11,882. If the actual number of Pay Periods during the PAGA Period exceeds 11,882 by more than ten percent (10%), Defendant, at its sole discretion, shall elect one of the following two options: (1) the PAGA Period shall be fixed at an end date so that the actual number of pay periods is not more than ten percent (10%) over 11,882, in which case the Gross Settlement Amount shall not be adjusted; or (2) for each percentage over the ten percent (10%) threshold (i.e. 13,070), the Gross Settlement Amount will be increased by an equal percentage (i.e. if the number of Pay Periods exceeds 11,882 by 11%, the Gross Settlement Amount shall increase by 1%; if the number of Pay Periods exceeds 11,882 by 15%, the Gross Settlement Amount shall increase by 5%, etc.).

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, if approved by the Court, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiff’s Attorneys’ Fees and Costs.** Defendant will not oppose Plaintiff’s request for attorneys’ fees in the amount up to one-third of the Gross Settlement Amount (currently estimated to be \$216,666.67 and costs up to \$10,000.00 incurred in prosecuting this Action. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys’ fees and costs). The Settlement Administrator will report these payments on IRS Form 1099 issued to Plaintiff’s Counsel.

b. **Plaintiff’s Service Award.** Defendant will not oppose Plaintiff’s request for an enhancement payment in the amount up to \$10,000.00 for serving as the representative plaintiff in this Action and for signing a release of claims with a Civil Code § 1542 waiver, which will be the subject a separate agreement, apart from the long-form settlement. In the event the Court

approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for Plaintiff's enhancement payment). The Settlement Administrator will report this payment on IRS Form 1099 issued to Plaintiff.

c. **Administration Costs.** Defendant will not oppose a request for the Settlement Administrator's costs, estimated at \$7,500.00, for administering the settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. **Allocation of Net Settlement Amount.** One hundred percent (100%) of the Net Settlement Amount shall be designated as "civil penalties" and shall be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Lab. Code § 2699(i). The 25% portion to be paid to Aggrieved Employees shall be paid to all Aggrieved Employees, proportionally based on each Aggrieved Employee's respective number of Affected Pay Periods worked during the PAGA Period.

a. The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Gross Settlement Amount or the Net Settlement Amount, the Parties agree to re-negotiate in good faith in an effort to obtain approval of the Settlement.

6. **PAGA Released Claims.** Plaintiff agrees that upon entry of an Order approving the Settlement and entering judgment thereon, and the Settlement being fully funded, Plaintiff and all Aggrieved Employees will fully and finally release any and all PAGA Released Claims against (i) Folsom Lake Ford, Inc. and PFLK, Inc.; (ii) each of their respective past, present, and future parents, subsidiaries, successors, and affiliates including, without limitation, any corporation, limited liability company, partnership, trust, foundation, and non-profit entity which controls, is controlled by, or is under common control with Folsom Lake Ford, Inc. and/or PFLK, Inc.; and (iii) the past, present and future shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing ("Released Parties"), that arose during the PAGA Period. Upon entry of the Order approving the settlement and judgment entered thereon, and the Settlement being fully funded, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties.

7. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement.

a. Plaintiff acknowledges that he has read this Settlement Agreement, that he fully understands his rights, privileges and duties under the Settlement Agreement, and enters into this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that he has had the opportunity to consult with his attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

8. **Confidentiality.** Plaintiff and Plaintiff's Counsel will not make any public disclosure of the terms of this Settlement (including, but not limited to, the Gross Settlement Amount), the negotiations leading to this Settlement, and all documents related to the Settlement, including the Memorandum of Understanding and any subsequent settlement contracts, except through the public filings to approve the Settlement (which includes submission of this PAGA Settlement and disclosure of its terms in an approval motion to both the Court and the LWDA). Plaintiff's Counsel will take all steps necessary to ensure that Plaintiff is aware of, and will ensure that he adheres to the restriction against any public disclosure of the Settlement. Following approval of the Settlement, Plaintiff and Plaintiff's Counsel will not initiate any communications (directly or indirectly) with the media regarding the Action. Notwithstanding the foregoing, Plaintiff and Plaintiff's Counsel may, in response to a communication initiated by the media, direct the inquiring media member to the public records of the Action on file with the Court, or in response to an inquiry by the LWDA, the Court, or any Aggrieved Employee, discuss the PAGA Settlement's terms.

To permit judicial review and approval of the Settlement, as required by Labor Code section 2698, *et seq.*, Plaintiff's Counsel will file the Settlement Agreement and the approval motion with the Court and submit the Settlement to the LWDA as part of the Parties' seeking Court approval of the Settlement, per Cal. Labor Code § 2699(1)(2).

9. **Filing of Motion for Approval of PAGA Settlement by Plaintiff's Counsel.**

Plaintiff's Counsel shall be responsible for preparing the Motion for Approval of this PAGA Settlement, and providing notice of this PAGA Settlement to the Labor and Workforce Development Agency.

10. **Termination of Settlement Agreement.** If the Court does not approve the settlement, if the Court does not enter judgment as provided for in this Settlement Agreement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or if one or more of the material terms of the Settlement Agreement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within 10 days of written notice thereof to elect to terminate the Settlement Agreement, in which case the Settlement Agreement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement. However, if the Court declines to approve the Settlement Agreement as drafted, the Parties agree to attempt in good faith to amend the Settlement Agreement to resolve the Court's concerns with the Settlement Agreement, before either Party terminates the Settlement Agreement.

11. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement, retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement, and enjoins the prosecution of any of the PAGA Released Claims against Defendant. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Phoenix Class Action Administration Solutions to handle the administration of this settlement.

2. **Provision of Information for Aggrieved Employees.** Within ten (10) business days after entry of the Order approving the settlement, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, last known telephone number, total Affected Pay Periods worked during the PAGA Period, and Social Security number. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the settlement. Within 7 calendar days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the Affected Pay Periods, Individual PAGA Payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall report on the total number of Affected Pay Periods, and obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address (NCOA) database to update the Aggrieved Employees' addresses. Within twenty-one (21) calendar days after the Gross Settlement Amount has been funded, and after receiving approval from counsel of the payment calculations as provided above, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, along with Individual PAGA Payments to all Aggrieved Employees via regular First Class U.S. Mail, at the address provided by Defendant or at the updated address located through the NCOA database search.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties and reported using IRS Form 1099, with no withholdings taken.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee. Any checks returned as non-deliverable on or before the check-cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a "skip-trace" search using the name, address and/or Social Security number of the Aggrieved Employee involved, and will perform up to a single re-mailing if a new address is located.

No later than 75 days after the date of initial mailing of the Individual PAGA Payments, the Settlement Administrator shall mail a reminder postcard to any Aggrieved Employee whose settlement check was not cashed within 60 days of the date of initial mailing, and shall offer to replace checks that have been misplaced.

Funds represented by checks returned as undeliverable after a re-mailing, checks for whom the Settlement Administrator could not locate an updated address after performing a skip trace, and funds represented by checks remaining un-cashed for more than 180 days after issuance (collectively, "Uncashed Checks"), will be paid to the Unclaimed Property Fund of the California State Controller, to be held in the name of the respective Aggrieved Employee.

5. **Distribution of Payments.** Within twenty-one (21) calendar days of the Settlement being fully funded, the Settlement Administrator shall issue payments to (1) Aggrieved Employees as noted above; (2) the LWDA; (3) Plaintiff's Counsel for Plaintiff's Counsel's Court-approved attorneys' fees and costs; (4) Plaintiff for the Court-approved Service Award; and (5) the Settlement Administrator for Court-approved Administration Costs incurred in connection with the Settlement. If economically feasible, all payments made by Defendant pursuant to this Settlement shall be held by the Settlement Administrator in an interest-bearing account until they are disbursed, with any accrued interest inuring to the benefit of the Aggrieved Employees in the form of pro rata increases to Aggrieved Employees' Individual PAGA Payments.

6. **Accounting.** Within 45 days after all payments have been made under the Settlement, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the settlement.

7. **Tax Consequences.** Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement Agreement.

V. **MISCELLANEOUS PROVISIONS**

1. **Drafting.** The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

2. **Successors.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, and other fees incurred in connection with this Settlement Agreement and the Action, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in Sacramento County, California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to

this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Sacramento.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them regarding the issues contemplated herein, and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA claim in the Action.

6. **Nullification of Settlement Agreement.** In the event that: (i) the Court does not approve the settlement as provided herein; or (ii) the settlement does not become final for any other reason, then this Settlement Agreement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their respective positions before the Settlement was executed.

7. **Judgment and Continued Jurisdiction.** After approval of this settlement, the Court shall retain jurisdiction over this case to ensure the continuing implementation of the provisions of this settlement agreement under California Code of Civil Procedure Section 664.6 and as otherwise allowed by law to ensure the continuing implementation of the provisions of this settlement. The Parties further agree that the time within which to bring this Action to trial under California Code of Civil Procedure Section 583.310 shall be extended from the date of the signing of this agreement by all parties until the entry of the approval order and judgment, or if not entered, the date this agreement shall no longer be of any force or effect.

8. **Amendment or Modification.** This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties.

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

10. **Execution and Counterparts.** This Settlement Agreement may be executed in one or more counterparts by facsimile, electronic signature, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Settlement Agreement.

11. **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 by experienced counsel. 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.

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

13. **Severability.** If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

14. **Waiver.** No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

15. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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

17. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

18. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

19. **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 confidentiality provisions that otherwise might apply under federal or state law.

IN WITNESS THEREOF, the Parties each acknowledge that he/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement and hereby executes it voluntarily and with full understanding of its consequences.

Agreed to and accepted by:

Dated: August 15, 2023

PLAINTIFF SHELDON WALKER

By: 
SHELDON WALKER

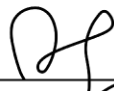
8/15/2023
Dated: August __, 2023

By: John Sears
AUTHORIZED REPRESENTATIVE ON
BEHALF OF FOLSOM LAKE FORD, INC.

Approved as to form:

Dated: August 15, 2023

GAINES & GAINES, APLC

By: 
DANIEL F. GAINES
ALEX P. KATOFISKY

Attorneys for Plaintiff
SHELDON WALKER

Dated: August 15, 2023

JACKSON LEWIS P.C.

By: 
NATHAN W. AUSTIN
SIERRA VIERRA

Attorneys for Defendant
FOLSOM LAKE FORD, INC.
4877-5500-7351, v. 1

EXHIBIT A

THIS SETTLEMENT DOES NOT RELEASE ANY INDIVIDUAL CLAIMS THAT YOU MIGHT HAVE AGAINST DEFENDANTS OUTSIDE OF PAGA.

**Re: Payment from Sheldon Walker v. Folsom Lake Ford, Inc.
Superior Court of California for the County of Sacramento; Case No. 34-2021-00304667**

Date: [REDACTED]/[REDACTED]/2023

SIMID
Name
Address

Dear [REDACTED]:

Enclosed, please find a check made payable to you. This is your payment from the settlement of the lawsuit titled *Sheldon Walker v. Folsom Lake Ford, Inc., et al.*, Case No. 34-2021-00304667, pending in the Superior Court of the State of California for the County of Sacramento (the “Action”).

The Action was filed against Folsom Lake Ford, Inc. (“FLF, Inc.”) and includes a claim pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”). The Action was brought by Plaintiff Sheldon Walker (“Plaintiff”), a former employee of FLF, Inc., on behalf of the State of California and other alleged aggrieved employees. You have been identified as one of the employees on whose behalf the case was brought.

Plaintiff claimed that FLF, Inc. owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties have reached a settlement of Plaintiff’s claims, and on [REDACTED], the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalty settlement amount goes to the State of California’s Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to employees of FLF, Inc. and PFLK, Inc. doing business as Folsom Lake Kia, Inc. (“PFLK, Inc.”) who were allegedly affected by the alleged violations of the Labor Code. In agreeing to this settlement, FLF, Inc. and PFLK, Inc. do not admit that they are liable in any way to current or former employees for any violations of the California Labor Code or any penalties. The Court has not decided the merits of Plaintiff’s claims.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the Unclaimed Property Fund of the California State Controller, to be held in your name. If you are still employed by FLF, Inc. or PFLK, Inc., your decision to cash the check will not affect your employment.

While you were not a party to the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The release includes all claims for PAGA civil penalties reasonably arising out of or related to the facts alleged in Plaintiff’s May 31, 2021 notice to the Labor and Workforce Development Agency and in the Action, including claims predicated on FLF, Inc.’s and PFLK, Inc.’s alleged failure to (1) pay wages due, including minimum wage and overtime; (2) provide written commission agreements; (3) provide missed meal and rest break premiums; (4) maintain meal period records; (5) provide accurate wage statements; and (6) provide all wages due at the time of termination, and including claims for PAGA civil penalties based on alleged violations of California Labor Code sections 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 2750, 2751, and related alleged violations of the California

Questions? Call toll-free () - [REDACTED]

Industrial Commission Wage Orders, that occurred between May 21, 2020 through October 10, 2022 (the “PAGA Period”).

If you have any questions, you can contact Phoenix Class Action Administration Solutions, the Settlement Administrator, at 1- [REDACTED] - [REDACTED].

Questions? Call toll-free ([REDACTED]) - [REDACTED]

EXHIBIT D

FIRST AMENDED JOINT STIPULATION
FOR SETTLEMENT

This **First Amended** Joint Stipulation for Settlement (“Settlement Agreement”) is reached by and between Plaintiff Sheldon Walker (“Plaintiff”), acting in a private attorney general capacity, and Defendant Folsom Lake Ford, Inc. (“Defendant”) (collectively, the “Parties”).

I. DEFINITIONS

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Action” means the matter entitled *Sheldon Walker v. Folsom Lake Ford, Inc., et al.*, pending in the Sacramento Superior Court, Case No. 34-2021-00304667, and the facts, claims, and allegations set forth in Plaintiff’s correspondence to the California Labor and Workforce Development Agency (“LWDA Letter”) dated May 21, 2021.

2. “Aggrieved Employees” are comprised of all non-exempt individuals employed by Folsom Lake Ford, Inc. (“Defendant”) and PFLK, Inc. doing business as Folsom Lake Kia, Inc. (“PFLK, Inc.”) during the time period May 21, 2020 to October 10, 2022 (“PAGA Period” as defined in Paragraph 10).

3. “Complaint” means the operative Representative Action Complaint, filed in the Action on July 21, 2021.

4. “Court” means the Superior Court of California for the County of Sacramento.

5. “Gross Settlement Amount” or “GSA” is the non-reversionary sum of Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000.00) (subject to the Escalator Provision below), which represents the total amount payable under this Settlement Agreement by Defendant, including, without limitation, Individual PAGA Payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s attorneys’ fees and costs, payment of Plaintiff’s Service Award, and payment to the Settlement Administrator for Administration Costs.

6. “Individual PAGA Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

7. “LWDA” means the California Labor and Workforce Development Agency.

8. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts, if approved by the Court, are subtracted from the Gross Settlement Amount: (a) Plaintiff’s attorneys’ fees up to ~~35%~~**one-third** of the Gross Settlement Amount; (b) Plaintiff’s litigation costs up to \$10,000.00; (c) Plaintiff’s Service Award up to \$10,000.00; and (d) Administration Costs, which are estimated at \$7,500.00.

9. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

10. “PAGA Period” means the time period from May 21, 2020 through October 10, 2022.

11. “PAGA Released Claims” mean all claims for PAGA civil penalties reasonably arising out of or related to the facts alleged in Plaintiff’s May 31, 2021 notice to the Labor and Workforce Development Agency and in the Action, including claims predicated on Defendant’s and PFLK, Inc.’s alleged failure to (1) pay wages due, including minimum wage and overtime; (2) provide written commission agreements; (3) provide missed meal and rest break premiums; (4) maintain meal period records; (5) provide accurate wage statements; and (6) provide all wages due at the time of termination ~~based on the facts and theories alleged in Plaintiff’s May 21, 2021 notice to the Labor and Workforce Development Agency and in the Action,~~ and including claims for PAGA civil penalties based on alleged violations of California Labor Code sections 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 2750, 2751, and related alleged violations of the California Industrial Commission Wage Orders, that occurred during the PAGA Period.

12. “Parties” mean Plaintiff and Defendant.

13. “Plaintiff’s Counsel” means Gaines & Gaines, APLC.

14. “Settlement Administrator” means Phoenix Class Action Administration Solutions.

II. RECITALS

1. Plaintiff worked for Defendant as a non-exempt Salesperson during the PAGA Period and is therefore an Aggrieved Employee.

2. On May 21, 2021, Plaintiff provided written notice to the LWDA (via its website) and Defendant (via certified mail) asserting claims for civil penalties under the PAGA stemming from alleged violations of California Labor Code sections 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 2750, 2751, and related alleged violations of the California Industrial Commission Wage Orders for failing to (1) pay wages due, including minimum wage and overtime; (2) provide written commission agreements; (3) provide missed meal and rest break premiums; (4) maintain meal period records; (5) provide accurate wage statements; and (6) provide all wages due at the time of termination.

3. On July 21, 2021, Plaintiff filed the Action, which asserts a claim for civil penalties under the PAGA based on the aforementioned alleged violations.

4. In connection with mediation, Defendant provided Plaintiff’s Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees in order for Plaintiff’s Counsel to investigate Plaintiff’s allegations and value the claims prior to mediation.

5. On August 11, 2022, the Parties participated in mediation before the Honorable Raul Ramirez (retired). With the assistance of Judge Ramirez, the Parties agreed to fully and finally resolve the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **No Admission.** Nothing in this Settlement Agreement shall be construed to be an admission by Plaintiff that his claims do not have merit, or by Defendant of any liability or

wrongdoing as to Plaintiff, Aggrieved Employees or any other person, and Defendant specifically

disclaims any such liability or wrongdoing. Defendant does not admit to liability or to the suitability of this case for representative litigation other than for purposes of settlement. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related court documents or orders are not, and may not be cited or admitted as, evidence of liability. If the Arbitrator and/or Court does not grant approval of this settlement, then the Parties agree to re-negotiate in good faith in an effort to obtain approval of the settlement.

2. **Gross Settlement Amount.** The Parties agree to settle the Action for the non-reversionary Gross Settlement Amount (“GSA”) of \$650,000.00 (subject to the Escalator Provision below). From the GSA, Plaintiff will seek, and Defendant shall not oppose: (a) attorneys’ fees of up to ~~35%~~one-third of the GSA; (b) attorneys’ litigation costs and expenses related to the Action of up to \$10,000.00; (c) settlement Administration Costs of approximately \$7,500.00; and (d) a Service Award to Plaintiff in the amount of \$10,000.00. After the amounts for attorneys’ fees, costs, Administration Costs, and Service Award are deducted from the GSA, the remaining amount shall be known as the “Net Settlement Amount.” Defendant shall deposit the full amount of the GSA into an account to be established by the Settlement Administrator, within thirty (30) days of Court approval of the Settlement.

3. **Escalator Clause.** The Aggrieved Employees are estimated to consist of approximately 425 individuals who worked approximately 10,809 Pay Periods for the period May 21, 2020 through May 31, 2022. Defendant extrapolates the number of Pay Periods from May 21, 2020 through the date of the Parties’ mediation on August 11, 2022 to be approximately 11,882. If the actual number of Pay Periods during the PAGA Period exceeds 11,882 by more than ten percent (10%), Defendant, at its sole discretion, shall elect one of the following two options: (1) the PAGA Period shall be fixed at an end date so that the actual number of pay periods is not more than ten percent (10%) over 11,882, in which case the Gross Settlement Amount shall not be adjusted; or (2) for each percentage over the ten percent (10%) threshold (i.e. 13,070), the Gross Settlement Amount will be increased by an equal percentage (i.e. if the number of Pay Periods exceeds 11,882 by 11%, the Gross Settlement Amount shall increase by 1%; if the number of Pay Periods exceeds 11,882 by 15%, the Gross Settlement Amount shall increase by 5%, etc.).

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, if approved by the Court, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiff’s Attorneys’ Fees and Costs.** Defendant will not oppose Plaintiff’s request for attorneys’ fees in the amount up to ~~\$227,500.00~~216,666.67 and costs up to \$10,000.00 incurred in prosecuting this Action. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys’ fees and costs). The Settlement Administrator will report these payments on IRS Form 1099 issued to Plaintiff’s Counsel.

b. **Plaintiff’s Service Award.** Defendant will not oppose Plaintiff’s request for an enhancement payment in the amount up to \$10,000.00 for serving as the representative plaintiff in this Action and for signing a release of claims with a Civil Code § 1542 waiver, which will be the subject a separate agreement, apart from the long-form settlement. In the event the Court

approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for Plaintiff's enhancement payment). The Settlement Administrator will report this payment on IRS Form 1099 issued to Plaintiff.

c. Administration Costs. Defendant will not oppose a request for the Settlement Administrator's costs, estimated at \$7,500.00, for administering the settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. **Allocation of Net Settlement Amount.** One hundred percent (100%) of the Net Settlement Amount shall be designated as "civil penalties" and shall be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Lab. Code § 2699(i). The 25% portion to be paid to Aggrieved Employees shall be paid to all Aggrieved Employees, proportionally based on each Aggrieved Employee's respective number of Affected Pay Periods worked during the PAGA Period.

a. The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Gross Settlement Amount or the Net Settlement Amount, the Parties agree to re-negotiate in good faith in an effort to obtain approval of the Settlement.

6. **PAGA Released Claims.** Plaintiff agrees that upon entry of an Order approving the Settlement and entering judgment thereon, and the Settlement being fully funded, Plaintiff and all Aggrieved Employees will fully and finally release any and all PAGA Released Claims against (i) Folsom Lake Ford, Inc. and PFLK, Inc.; (ii) each of their respective past, present, and future parents, subsidiaries, successors, and affiliates including, without limitation, any corporation, limited liability company, partnership, trust, foundation, and non-profit entity which controls, is controlled by, or is under common control with Folsom Lake Ford, Inc. and/or PFLK, Inc.; and (iii) the past, present and future shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing ("Released Parties"), that arose during the PAGA Period. Upon entry of the Order approving the settlement and judgment entered thereon, and the Settlement being fully funded, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties.

7. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement.

a. Plaintiff acknowledges that he has read this Settlement Agreement, that he fully understands his rights, privileges and duties under the Settlement Agreement, and enters into this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that he has had the opportunity to consult with his attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

8. **Confidentiality.** Plaintiff and Plaintiff's Counsel will not make any public disclosure of the terms of this Settlement (including, but not limited to, the Gross Settlement Amount), the negotiations leading to this Settlement, and all documents related to the Settlement, including the Memorandum of Understanding and any subsequent settlement contracts, except through the public filings to approve the Settlement (which includes submission of this PAGA Settlement and disclosure of its terms in an approval motion to both the Court and the LWDA). Plaintiff's Counsel will take all steps necessary to ensure that Plaintiff is aware of, and will ensure that he adheres to the restriction against any public disclosure of the Settlement. Following approval of the Settlement, Plaintiff and Plaintiff's Counsel will not initiate any communications (directly or indirectly) with the media regarding the Action. Notwithstanding the foregoing, Plaintiff and Plaintiff's Counsel may, in response to a communication initiated by the media, direct the inquiring media member to the public records of the Action on file with the Court, or in response to an inquiry by the LWDA, the Court, or any Aggrieved Employee, discuss the PAGA Settlement's terms.

To permit judicial review and approval of the Settlement, as required by Labor Code section 2698, *et seq.*, Plaintiff's Counsel will file the Settlement Agreement and the approval motion with the Court and submit the Settlement to the LWDA as part of the Parties' seeking Court approval of the Settlement, per Cal. Labor Code § 2699(1)(2).

9. **Filing of Motion for Approval of PAGA Settlement by Plaintiff's Counsel.**

Plaintiff's Counsel shall be responsible for preparing the Motion for Approval of this PAGA Settlement, and providing notice of this PAGA Settlement to the Labor and Workforce Development Agency.

10. **Termination of Settlement Agreement.** If the Court does not approve the settlement, if the Court does not enter judgment as provided for in this Settlement Agreement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or if one or more of the material terms of the Settlement Agreement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within 10 days of written notice thereof to elect to terminate the Settlement Agreement, in which case the Settlement Agreement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement. However, if the Court declines to approve the Settlement Agreement as drafted, the Parties agree to attempt in good faith to amend the Settlement Agreement to resolve the Court's concerns with the Settlement Agreement, before either Party terminates the Settlement Agreement.

11. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement, retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement, and enjoins the prosecution of any of the PAGA Released Claims against Defendant. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Phoenix Class Action Administration Solutions to handle the administration of this settlement.

2. **Provision of Information for Aggrieved Employees.** Within ten (10) business days after entry of the Order approving the settlement, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, last known telephone number, total Affected Pay Periods worked during the PAGA Period, and Social Security number. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the settlement. Within 7 calendar days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the Affected Pay Periods, Individual PAGA Payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall report on the total number of Affected Pay Periods, and obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address (NCOA) database to update the Aggrieved Employees' addresses. Within twenty-one (21) calendar days after the Gross Settlement Amount has been funded, and after receiving approval from counsel of the payment calculations as provided above, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, along with Individual PAGA Payments to all Aggrieved Employees via regular First Class U.S. Mail, at the address provided by Defendant or at the updated address located through the NCOA database search.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties and reported using IRS Form 1099, with no withholdings taken.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee. Any checks returned as non-deliverable on or before the check-cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a "skip-trace" search using the name, address and/or Social Security number of the Aggrieved Employee involved, and will perform up to a single re-mailing if a new address is located.

No later than 75 days after the date of initial mailing of the Individual PAGA Payments, the Settlement Administrator shall mail a reminder postcard to any Aggrieved Employee whose settlement check was not cashed within 60 days of the date of initial mailing, and shall offer to replace checks that have been misplaced.

Funds represented by checks returned as undeliverable after a re-mailing, checks for whom the Settlement Administrator could not locate an updated address after performing a skip trace, and funds represented by checks remaining un-cashed for more than 180 days after issuance (collectively, “Uncashed Checks”), will be paid to the Unclaimed Property Fund of the California State Controller, to be held in the name of the respective Aggrieved Employee.

5. **Distribution of Payments.** Within twenty-one (21) calendar days of the Settlement being fully funded, the Settlement Administrator shall issue payments to (1) Aggrieved Employees as noted above; (2) the LWDA; (3) Plaintiff’s Counsel for Plaintiff’s Counsel’s Court-approved attorneys’ fees and costs; (4) Plaintiff for the Court-approved Service Award; and (5) the Settlement Administrator for Court-approved Administration Costs incurred in connection with the Settlement. If economically feasible, all payments made by Defendant pursuant to this Settlement shall be held by the Settlement Administrator in an interest-bearing account until they are disbursed, with any accrued interest inuring to the benefit of the Aggrieved Employees in the form of pro rata increases to Aggrieved Employees’ Individual PAGA Payments.

6. **Accounting.** Within 45 days after all payments have been made under the Settlement, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the settlement.

7. **Tax Consequences.** Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement Agreement.

V. **MISCELLANEOUS PROVISIONS**

1. **Drafting.** The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm’s-length negotiations between the Parties and that neither Party shall be considered the “drafter” of this Settlement Agreement for purposes of having terms construed against that Party.

2. **Successors.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs, attorneys’ fees, and other fees incurred in connection with this Settlement Agreement and the Action, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in Sacramento County, California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to

this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Sacramento.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them regarding the issues contemplated herein, and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA claim in the Action.

6. **Nullification of Settlement Agreement.** In the event that: (i) the Court does not approve the settlement as provided herein; or (ii) the settlement does not become final for any other reason, then this Settlement Agreement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their respective positions before the Settlement was executed.

7. **Judgment and Continued Jurisdiction.** After approval of this settlement, the Court shall retain jurisdiction over this case to ensure the continuing implementation of the provisions of this settlement agreement under California Code of Civil Procedure Section 664.6 and as otherwise allowed by law to ensure the continuing implementation of the provisions of this settlement. The Parties further agree that the time within which to bring this Action to trial under California Code of Civil Procedure Section 583.310 shall be extended from the date of the signing of this agreement by all parties until the entry of the approval order and judgment, or if not entered, the date this agreement shall no longer be of any force or effect.

8. **Amendment or Modification.** This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties.

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

10. **Execution and Counterparts.** This Settlement Agreement may be executed in one or more counterparts by facsimile, electronic signature, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Settlement Agreement.

11. **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 by experienced counsel. 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.

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

13. **Severability.** If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

14. **Waiver.** No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

15. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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

17. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

18. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

19. **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 confidentiality provisions that otherwise might apply under federal or state law.

IN WITNESS THEREOF, the Parties each acknowledge that he/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement and hereby executes it voluntarily and with full understanding of its consequences.

Agreed to and accepted by:

Dated: January — August , 2023

PLAINTIFF SHELDON WALKER

By: _____
SHELDON WALKER

Dated: January — August , 2023

By: _____
AUTHORIZED REPRESENTATIVE ON
BEHALF OF FOLSOM LAKE FORD, INC.

Approved as to form:

Dated: January — August , 2023

GAINES & GAINES, APLC

By: _____
DANIEL F. GAINES
ALEX P. KATOFISKY
Attorneys for Plaintiff
SHELDON WALKER

Dated: January — August , 2023

JACKSON LEWIS P.C.

By: _____
NATHAN W. AUSTIN
SIERRA VIERRA
Attorneys for Defendant
FOLSOM LAKE FORD, INC.
4877-5500-7351, v. 1

EXHIBIT A

THIS SETTLEMENT DOES NOT RELEASE ANY INDIVIDUAL CLAIMS THAT YOU MIGHT HAVE AGAINST DEFENDANTS OUTSIDE OF PAGA.

**Re: Payment from Sheldon Walker v. Folsom Lake Ford, Inc.
Superior Court of California for the County of Sacramento; Case No. 34-2021-00304667**

Date: [REDACTED]/[REDACTED]/2023

SIMID
Name
Address

Dear **Name**:

Enclosed, please find a check made payable to you. This is your payment from the settlement of the lawsuit titled *Sheldon Walker v. Folsom Lake Ford, Inc., et al.*, Case No. 34-2021-00304667, pending in the Superior Court of the State of California for the County of Sacramento (the “Action”).

The Action was filed against Folsom Lake Ford, Inc. (“FLF, Inc.”) and includes a claim pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”). The Action was brought by Plaintiff Sheldon Walker (“Plaintiff”), a former employee of FLF, Inc., on behalf of the State of California and other alleged aggrieved employees. You have been identified as one of the employees on whose behalf the case was brought.

Plaintiff claimed that FLF, Inc. owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties have reached a settlement of Plaintiff’s claims, and on [DATE], the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalty settlement amount goes to the State of California’s Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to employees of FLF, Inc. and PFLK, Inc. doing business as Folsom Lake Kia, Inc. (“PFLK, Inc.”) who were allegedly affected by the alleged violations of the Labor Code. In agreeing to this settlement, FLF, Inc. and PFLK, Inc. do not admit that they are liable in any way to current or former employees for any violations of the California Labor Code or any penalties. The Court has not decided the merits of Plaintiff’s claims.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the Unclaimed Property Fund of the California State Controller, to be held in your name. If you are still employed by FLF, Inc. or PFLK, Inc., your decision to cash the check will not affect your employment.

While you were not a party to the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The release includes all claims underfor PAGA that were civil penalties reasonably arising out of or related to the facts alleged in Plaintiff’s ~~complaint~~ May 31, 2021 notice to the Labor and Workforce Development Agency and in the Action, including claims ~~for civil penalties, attorneys’ fees, costs, or interest under PAGA based on predicated on~~ FLF, Inc.’s and PFLK, Inc.’s alleged failure to (1) pay wages due, including minimum wage and overtime; (2) provide written commission agreements; (3) provide missed meal and rest break premiums; (4) maintain meal period records; (5) provide accurate wage statements; and (6) provide all wages due at the time of termination, and including claims for PAGA civil penalties based on alleged violations of California Labor Code sections 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5,

1194, 1194.2, 2750, 2751, and related alleged violations of the California Industrial Commission Wage Orders, ~~during the time period~~that occurred between May 21, 2020 through October 10, 2022 (the “PAGA Period”).

If you have any questions, you can contact Phoenix Class Action Administration Solutions, the Settlement Administrator, at 1- [REDACTED] - [REDACTED].

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to
3 the within action. My business address is 4550 East Thousand Oaks Boulevard, Suite 100, Westlake Village, CA
4 91362.

5 _____ (For messenger) my business address is:

6 On August 16, 2023, I served the foregoing documents described as **(1) JOINT SUPPLEMENTAL**
7 **BRIEFING FOR MOTION FOR AN ORDER APPROVING SETTLEMENT OF CLAIMS BROUGHT**
8 **PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004, AWARDING ATTORNEYS'**
9 **FEES, COSTS, SERVICE AWARD, AND REIMBURSEMENT OF SETTLEMENT ADMINISTRATION**
10 **EXPENSES, AND ENTERING JUDGMENT THEREON** and **(2) SUPPLEMENTAL DECLARATION OF**
11 **DANIEL F. GAINES IN SUPPORT OF MOTION FOR AN ORDER APPROVING SETTLEMENT OF**
12 **CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004, AWARDING**
13 **ATTORNEYS' FEES, COSTS, SERVICE AWARD, AND REIMBURSEMENT OF SETTLEMENT**
14 **ADMINISTRATION EXPENSES, AND ENTERING JUDGMENT THEREON** on the interested parties in this
15 action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

16 **Nathan W. Austin, Esq.**
17 **nathan.austin@jacksonlewis.com**
18 **Sierra Vierra, Esq.**
19 **sierra.vierra@jacksonlewis.com**
20 **JACKSON LEWIS P.C.**
21 **400 Capitol Mall, Suite 1600**
22 **Sacramento, CA 95814**
23 **Cc: nicole.grandy@jacksonlewis.com**

24 On the above date:

25 _____ (BY ☐ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was
26 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing
27 correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of
28 business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage
meter date is more than one day after date of deposit for mailing in affidavit.

29 ☒ (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic
transmission on the counsel of record listed above.

30 ☒ (UPLOADED TO LWDA WEB PORTAL) I caused the above-described documents to be delivered to the
Labor & Workforce Development Agency via online process at the PAGA Filing website (www.dir.ca.gov) in
accordance with the procedure imposed by the LWDA.

31 I certify that the above document was printed on recycled paper.

32 I declare under penalty of perjury that the foregoing is true and correct.

33 Executed on August 16, 2023, at Westlake Village, California.

34 
35 AMELIA BOOTH