

Private Attorneys General Act (Cal. Lab. Code § 2698, Et Seq.) Settlement Agreement

This Stipulation of Settlement ("PAGA Settlement Agreement" or "Stipulation of Settlement" or "Settlement") is made by and between the Named Plaintiff Brian Borillo ("Plaintiff"), on his own behalf and on behalf of the State of California and all members of the PAGA Group, as defined below, and Defendants S&F MANAGEMENT COMPANY, INC., a Delaware Corporation, and MODERN HERO, INC., a California Corporation, ("Defendants"), in the lawsuit entitled *BRIAN BORILLO VS. S&F MANAGEMENT COMPANY, INC., ET AL.*, Los Angeles Superior Court Case No. 21SMCV01370 (the "Litigation"). The term "Party" or "Parties" as used herein shall refer to Plaintiff, Defendants, or both, as may be appropriate. This PAGA Settlement Agreement resolves all claims asserted against Defendants pertaining to the claims in the Litigation pursuant to and subject to the definitions, recitals, and terms and conditions set forth herein, which by this reference become an integral part of this Stipulation of Settlement, subject to the approval of the Court.

I. DEFINITIONS

A. Administrative Costs. All administrative costs of settlement, including cost of notice to the Settlement Group, administration, and any fees and costs incurred or charged by the Settlement Administrator in connection with the execution of its duties under this Stipulation of Settlement (up to \$2,500.00).

B. Agreement. The terms "Agreement" or "Settlement Agreement" are used synonymously herein to mean this PAGA Settlement Agreement for purposes of Resolution.

C. Court. The term "Court" as used herein means the Superior Court of the State of California for the County of Los Angeles.

D. Date of Approval. The terms "Date of Approval" or "Approval" as used herein mean the date of the Court's approval of the PAGA Settlement Agreement.

E. Defendants. The term "Defendants" as used herein means: S&F Management Company, Inc., and Modern Hero, Inc.

F. Effective Date. The Effective Date will be the first day after service by Plaintiff on Defendants of the Order approving this Settlement.

G. Litigation. The term "Litigation" as used herein means the action entitled filed in Los Angeles Superior Court, Case No. 21SMCV01370.

H. Named Plaintiff. The term "Named Plaintiff" as used herein means BRIAN BORILLO. The term Named Plaintiff shall be used synonymously with the term PAGA Representative.

I. Net Settlement Amount. The term "Net Settlement Amount" as used herein is the total Settlement Payment (\$50,000) and will be allocated as follows: (a) PAGA's Counsel's award of attorneys' fees up to the requested amount of 33% (\$16,500) of the Settlement Payment; (b) PAGA Counsel's request for reimbursement of Litigation costs in the amount up to \$8,000.00; (c) Administrative Costs in the amount of up to \$2,500.00; (d) PAGA Enhancement Payment awarded to Plaintiff in the amount of \$1,000.00; and (e) the remainder of the Settlement Payment after deducting items (a), (b), (c), and (d) herein shall be designated as "PAGA Penalties" (\$22,000.00), which are allocated between the LWDA and PAGA employees, with seventy-five percent (75%) of penalties payable to the LWDA (\$16,500.00) ("LWDA Payment") and twenty-five percent (25%) to the PAGA employees (\$5,500.00) ("PAGA GROUP PAYMENT") pursuant to California's Private Attorney General Act ("PAGA"), and as provided in Sections VI and X, respectively.

J. Net Settlement Payments. The term "Net Settlement Payment(s)" shall include payments made to the PAGA Group as part of the Resolution.

K. LWDA Payment. The term "LWDA Payment" (\$16,500.00) as used herein means seventy-five percent (75%) of the remainder of the Settlement Amount after the deduction of any award of attorneys' fees, Litigation costs, and Administrative Costs and the PAGA Enhancement Payment.

L. PAGA Group Payment. The term "PAGA GROUP PAYMENT" (\$5,500.00) as used herein means Twenty-five percent (25%) of the remainder of the Settlement Amount after the deduction of any award of attorneys' fees, Litigation costs, Administrative Costs, and the PAGA Enhancement Payment.

M. PAGA Enhancement Payment. The amount the Court awards to Plaintiff, which will not exceed Five Thousand Dollars (\$1,000.00), subject to Court approval, in recognition of his actions in conferring a benefit upon the State of California and his effort and work in prosecuting the Litigation on behalf of the PAGA Group.

N. Plaintiff's Counsel. The term "Plaintiffs' Counsel" as used herein means: Haig B. Kazandjian Lawyers, APC, who are counsel for and acting on behalf of Named Plaintiff.

O. PAGA Group. The PAGA Group is defined as: All persons within the State of California who are or were employed by Defendants or provided services to Defendants in the State of California that were classified as non-exempt at any time within the PAGA Period. The Parties currently estimate that there are approximately 98 individuals in the PAGA Group.

P. PAGA Period. The term "PAGA Period" or "Settlement Period" shall refer to the time period from June 8, 2020 to the date of settlement approval.

Q. Resolution. The term "Resolution" as used herein means this Agreement to resolve the Litigation.

R. Settlement Administrator. The term "Settlement Administrator" as used herein means Simpluris Inc., which will be responsible for the administration of the Settlement Payment, as defined below, and all related matters.

S. Settlement Agreement. The terms "Settlement Agreement" or "Agreement" are used synonymously herein to mean this PAGA Settlement Agreement.

T. Settlement Amount. The terms "Settlement Amount" and "Gross Settlement Fund" as used herein mean a fund in the sum of FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$50,000.00), which shall be paid by Defendants, and from which all Net Settlement Payments, PAGA Enhancement Payment, Court approved attorneys' fees and Litigation costs, Administrative Costs, LWDA payment, and PAGA Group payment shall be paid. The Settlement Amount of \$50,000.00 is due 30 days following the Effective Date. If the Effective Date has not occurred when Defendants fund the Settlement Amount, the Settlement Administrator shall place such funds into a Qualified Settlement Fund

II. BACKGROUND

A. On June 8, 2021, Plaintiff provided notice of his intent to pursue civil penalties against Defendants with a Private Attorney General Act ("PAGA") Notice to the Labor and Workforce Development Agency ("LWDA") and demand letter alleging claims for wage and hour PAGA violations against Defendants on Plaintiffs behalf and on behalf of other alleged aggrieved employees, including: California Labor Code Sections 201, 202, 203, 204, 206, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1175.4, 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

B. On August 13, 2021, Plaintiff brought an action against Defendants, which is pending as ***BRIAN BORILLO VS. S&F MANAGEMENT COMPANY, INC., ET AL.***, Los Angeles Superior Court Case No. 21SMCV01370 (the "Litigation"). In the Litigation, Plaintiff asserts a cause of action for violation of California Labor Code § 2698 et seq. More specifically, Plaintiff alleges in the Litigation that Defendants violated PAGA because they: (1) failed to provide employment records in violation of Labor Code 226, 432, 1198.5 (2) failed to pay overtime in violation of Labor Code §510, §1198, and applicable Wage Orders (3) failed to provide meal and rest periods in violation of Labor Code §226.7 and applicable Wage Orders; (4) failed to pay minimum wages in violation of Labor Code §1194, §1197, and §1197.1; (5) failed to timely pay wages upon termination in violation of Labor Code §201 and 202; (6) failed to provide complete and accurate wage statements in violation of Labor Code §226(a); (7) failed to keep complete and accurate payroll records in violation of Labor Code §1174(d); and (8) failed to timely pay wages during employment in violation of Labor Code 204 (9) failed to pay wages upon termination in violation of Labor Code 201, 202, and 203 (10) failed to provide information required by the wage theft prevention act in violation of Labor Code 2810.5(a)(1)(A)-(C) (11) failed to reimburse necessary Business-Related Expenses and Costs in violation of Labor Code §2800 and 2802, failed to provide notice of paid sick time and accrual in violation of Labor Code 246, and (12) violated individually violated Labor Code 558.

C. The Litigation sought penalties under PAGA for these alleged violations.

D. Following the filing of the Litigation, counsel for the Parties met and conferred with respect to the potential settlement of the Litigation. Pursuant to these discussions, the Parties agreed to exchange informal discovery and engaged in private mediation. The Parties subsequently exchanged informal discovery, including: information and documentation concerning the claims

set forth in the Litigation, such as documentation regarding Named Plaintiffs employment; information regarding the number of putative PAGA Group members and the number of current versus former employees; and the total pay periods worked by the PAGA Group.

E. Named Plaintiff and Plaintiff's Counsel have engaged in good faith, arms-length negotiations. On April 7, 2022, the Parties participated in a mediation with the mediator Mike Young. Thereafter, a settlement agreement was reached in principle on April 7, 2022. The Parties settled the case, subject to the Approval of the Court and finalization of a formal Stipulation of Settlement. The Parties have now entered into a more detailed, formalized Stipulation of Settlement for submission to the Court for Approval.

F. Plaintiff's Counsel has conducted an investigation of the law and facts relating to the claims asserted in the Litigation and has concluded, taking into account the sharply contested issues involved, the expense and time necessary to pursue the Litigation through trial and any appeals, the risks and costs of further prosecution of the Litigation, the risk of an adverse outcome, the uncertainties of complex litigation, and the substantial benefits to be received by the Named Plaintiff and the members of the PAGA Group pursuant to this Agreement, that a settlement with Defendants on the terms and conditions set forth herein is fair, reasonable, adequate, and in the best interests of the PAGA Group. Named Plaintiff, on her own behalf and as a representative pursuant to PAGA, has agreed to settle the Litigation on the terms set forth herein.

G. Defendants have concluded that, because of the substantial expense of defending against the Litigation, the length of time necessary to resolve the issues presented herein, the inconvenience involved, and the concomitant disruption to its operations, it is in its best interests to accept the terms of this Agreement. Defendants deny each of the allegations and claims asserted against it in the Litigation. However, Defendants nevertheless desire to settle the Litigation for the

purpose of avoiding the burden, expense, and uncertainty of continuing litigation and for the purpose of putting to rest the controversies engendered by the Litigation.

III. JURISDICTION

The Parties agree that the Court has jurisdiction over the Parties and the subject matter of this Litigation. The Litigation includes claims that, while Defendants deny them in their entirety, would, if proven, authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted Approval of the Resolution, pursuant to California Code of Civil Procedure Section 664.6 the Parties agree that the Court shall retain jurisdiction of this action solely for the purpose of interpreting, implementing, and enforcing this Resolution consistent with the terms set forth herein, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing this Agreement and all orders and judgments entered in connection therewith.

IV. STATEMENT OF NO ADMISSION

A. Defendants deny liability to Named Plaintiff and to the PAGA Group upon any claim or cause of action. This Agreement does not constitute, and is not intended to constitute, an admission by Defendants as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Litigation.

B. Nothing in this Agreement, nor any action taken in implementation thereof, nor any statements, discussions, or communications, nor any materials prepared, exchanged, issued, or used during the course of the negotiations leading to this Agreement or the Resolution, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used, or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative, or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute,

ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity. The Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative, or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders or judgments of the Court entered in connection with the Resolution.

C. None of the documents produced or created by Named Plaintiff or the PAGA Group in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendants of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity.

D. Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any group should or would be given collective treatment in the Litigation or in any other action or proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement will be admissible in any court or other tribunal regarding the propriety of collective treatment. In the event that this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Named Plaintiff will not be deemed to have waived, limited, or affected in any way any claims, rights, or remedies in the Litigation, and Defendants will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Litigation.

V. **RELEASE, DISMISSAL, AND CONFIDENTIALITY**

A. Release as to All PAGA Group Members.

Upon Approval by the Court of this Settlement, Plaintiff, the State of California and each member of the PAGA Group, will release any and all claims and causes of action under the California Private Attorneys' General Act of 2004 Cal. Lab. Code § 2698 (PAGA) against Defendants, Defendants' parents, present and former parent companies, subsidiaries, divisions, concepts, related or affiliated companies, and their shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and all persons acting by or through or in concert with any of them, and each of them, (hereinafter "Released Parties"), arising out of the facts and claims asserted in Named Plaintiffs June 8, 2021 PAGA Notice and in the Complaint in the Litigation for civil penalties under PAGA based upon any of Named Plaintiff's allegations or claims, under any legal theory of liability, including claims that Defendants: (1) failed to provide employment records in violation of Labor Code 226, 432, 1198.5 (2) failed to pay overtime in violation of Labor Code §510, §1198, and applicable Wage Orders (3) failed to provide meal and rest periods in violation of Labor Code §226.7 and applicable Wage Orders; (4) failed to pay minimum wages in violation of Labor Code §1194, §1197, and §1197.1; (5) failed to timely pay wages upon termination in violation of Labor Code §201 and 202; (6) failed to provide complete and accurate wage statements in violation of Labor Code §226(a); (7) failed to keep complete and accurate payroll records in violation of Labor Code §1174(d); and (8) failed to timely pay wages during employment in violation of Labor Code 204 (9) failed to pay wages upon termination in violation of Labor Code 201, 202, and 203 (10) failed to provide information required by the wage theft prevention act in violation of Labor Code 2810.5(a)(1)(A)-(C) (11) failed to reimburse necessary Business-Related Expenses and Costs in violation of Labor Code §2800 and 2802, failed to provide notice of paid sick time and accrual in violation of Labor Code 246, and (12) violated

individually violated Labor Code 558., or any other violations under California Labor Code sections 201, 202, 203, 204, 206, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1175.4, 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5, and their subsections, and all applicable Wage Orders as well as all interpretations of these laws by California Courts and administrative bodies. This release extends only to the penalties available through PAGA and does not release individual claims. Plaintiff also provides a general release and express waiver of the provisions of California Civil Code section 1542.

The PAGA Released Claims exclude the release of claims not permitted by law.

B. Release of Plaintiff's Individual Claims.

Plaintiff acknowledges the existence of and, with respect to the release given herein, expressly waives and relinquishes any and all rights and benefits Plaintiff has or may have under California Civil Code, Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiff acknowledges that he may hereafter discover facts different from or in addition to those which she or her attorneys now know or believe to be true with respect to the matters released in this settlement, and agrees that the release so given herein, shall be and remain in effect as a full and complete release of all claims, notwithstanding any such different or additional facts.

C. Publicity.

The Named Plaintiff and his counsel agree that they have not and will not publish the Resolution. More specifically, Named Plaintiff and his counsel agree that they will not report the Settlement in any medium or in any publication, shall not post or report anything regarding the claims of Named Plaintiff or the Settlement on any website, and shall not contact any reporters or media regarding the Settlement. However, nothing in the provision shall be construed from as preventing the Parties from taking following actions: (a) Named Plaintiff's Counsel shall be allowed to refer to the Litigation and Resolution in pleadings filed in other litigations to support their adequacy as attorneys for a putative class or to justify an award of attorney's fees; (b) the Parties shall have the right to disclose the Resolution as may be required under federal or state tax and/or securities laws or under Generally Accepted Accounting Principles; (c) the Parties may refer to the Resolution, describe its terms, and file the settlement agreement with the Court, the California LWDA, and the Settlement Administrator in connection with any proceedings which are reasonably necessary to obtain Approval of the Settlement; and, (d) the Parties or their representatives may communicate with accountants or legal advisors regarding the Resolution.

Except for the previously listed exceptions, in response to any inquiries about the Litigation, the Parties may state that "the case was resolved, and it was resolved confidentially."

VI. NOTICE TO LWDA

Pursuant to California Labor Code § 2699(1)(1), Plaintiff shall submit to the LWDA a copy of this Settlement Agreement and all supporting approval documents at the same time that Plaintiff submits it to the Court for approval.

VII. SETTLEMENT ADMINISTRATOR

Named Plaintiff and Defendants, through their respective counsel, have selected Simpluris Inc., as the Settlement Administrator to administer the Resolution, which includes but is not limited

to distributing and responding to inquiries about the Notice of Resolution and calculating all amounts to be paid from the Net Settlement Fund. Charges and expenses of the Settlement Administrator, estimated to be no more than Two Thousand Five Hundred Dollars (\$2,500.00) will be paid from the Settlement Amount. Any charges and expenses of the Settlement Administrator greater than the Two Thousand Five Hundred Dollars (\$2,500.00) will come from the Settlement Amount. If the actual Settlement Administrator fees are less than the Parties' estimation, the difference between the actual and estimated Settlement Administrator fees will be included in the Net Settlement Amount.

VIII. COMPUTATION AND DISTRIBUTION OF PAYMENTS

A. Distribution Formula.

Members of the PAGA Group will receive a lump sum payment as good and valuable consideration for the waiver and release of claims set forth in Section V(A), above, in an amount determined by the Settlement Administrator in accordance with the provisions of this Agreement. The lump sum payment to each member of the PAGA Group will be determined by dividing the Net Settlement Amount by the total number of pay periods worked by all members of the PAGA Group during the Settlement Period (the "Pay Period Amount") and then multiplying the Pay Period Amount by the number of pay periods worked by the individual PAGA member.

B. Funding of Resolution and Payment Dates.

The Settlement Amount of \$50,000.00 is due 30 days from the Effective Date as provided in this Agreement.

Attorney fees shall be awarded to the prevailing party for enforcement of the settlement. The funds used for the Settlement Amount shall be paid to the Claims Administrator by

Defendants. No portion of the Maximum Settlement Amount shall be distributed until the Effective Date.

If a PAGA Group member is deceased at the time of distribution, the Settlement Administrator shall distribute the deceased PAGA Group member's Net Settlement Payment to the deceased PAGA Group member's legal heir(s). In the event of a dispute as to the legal heir(s), the Settlement Administrator shall notify the executor of the deceased PAGA Group member's estate and attempt to place the deceased PAGA Group member's payment in escrow or similar disposition such that any competing heirs may take whatever action they wish to resolve ultimate disposition of such money and the Settlement Administrator, and the Parties hereto may disclaim any further interest in or obligation in relation to such money.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace search and, if another address is identified, shall mail the check to the newly identified address. If the Settlement Administrator is unable to obtain a valid mailing address through this process, the monies represented by the check shall be turned over according to the below procedures.

Settlement checks will specifically indicate that they are void if not negotiated within one hundred eighty 180 days of their issuance. Any settlement checks that remain uncashed one hundred eighty (180) or more calendar days after issuance by the Settlement Administrator shall be voided. The Settlement Administrator will remit the entire amount of each PAGA Group member's uncashed Individual Settlement Payment to the California State Controller for deposit in the Unclaimed Property Fund in the name of the PAGA Group member to whom the uncashed Individual Settlement Payment was drafted.

C. PAGA Enhancement Payment.

Subject to Court approval, the Plaintiff shall receive an Enhancement Award of up to One Thousand Dollars and Zero Cents (\$1,000.00) for services as the PAGA representative. The PAGA Enhancement Payment will be paid from the Gross Settlement Fund and Settlement Amount and shall not constitute payment to any other PAGA Group members other than Plaintiff. To the extent that the Court approves less than the amount of PAGA Enhancement Award that Plaintiffs' Counsel requests, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount, and Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.

Because it is the intent of the Parties that the PAGA Enhancement Payment represent payment to Plaintiff for service to the PAGA Group, and not wages, the Settlement Administrator will not withhold any taxes from the PAGA Enhancement Payment. The PAGA Enhancement Payment will be reported on the IRS Form 1099, which the Settlement Administrator will provide to Plaintiff and to the pertinent taxing authorities as required by law.

IX. ADMINISTERING THE SETTLEMENT

On or before Defendants' payment of the Settlement Amount, Defendants shall provide the Settlement Administrator with a list of Aggrieved Employees ("Aggrieved Employee List") containing the (1) name; (2) last known home address; (3) the Aggrieved Employee's social security number or other identifying information; and (4) the hire date and termination date (if any) for each Aggrieved Employee and the pay frequency calendars to enable the Settlement Administrator to determine the number of pay periods each Aggrieved Employee worked during the PAGA Period. Neither the Aggrieved Employee List nor any information contained therein shall be distributed to PAGA Counsel at any time. The settlement administrator will distribute the

checks to the Aggrieved Employees, at a cost not exceeding \$2,500.00, which shall come exclusively from the Settlement Payment which will reduce the available PAGA Penalty Fund.

Within fifteen (15) calendar days after the Settlement has been fully funded, as described in the paragraphs above, provided there is no objection by the LWDA as to any material term of the Settlement Agreement prior to Court Approval of this Settlement, the settlement administrator will cause payment of checks for: (a) \$1,000 to Plaintiff as an incentive award and in exchange for a general release; (b) PAGA Counsel for the total amount of PAGA Counsel Fees & Costs, as defined herein as follows: (1) \$16,500 paid to PAGA Counsel for attorneys' fees (or any lesser amount the Court approves for attorneys' fees) and (2) up to 8,000 paid to PAGA Counsel for costs.

Within fifteen (15) calendar days after the Settlement has been fully funded as described in the paragraphs above, provided there is no objection by the LWDA as to any material term of the Settlement Agreement prior to Court Approval, the settlement administrator will cause payment of checks to the LWDA for penalties, and for the PAGA GROUP in the Aggrieved Employee List as set forth above. Concurrently with sending each Aggrieved Employee their share of the Settlement Amount, the Claims Administrator will include a "Notice of PAGA Action Settlement" (attached hereto as **Exhibit "A"**) along with each Aggrieved Employee's check. The settlement administrator shall send each Aggrieved Employee their check via U.S. First Class mail to each Aggrieved Employee's address with directions to the Postmaster to return all undeliverable mail to the settlement administrator. Prior to the mailing, the settlement administrator shall update the addresses contained in the Aggrieved Employees List using the National Change of Address database. If an Aggrieved Employee's check is returned as undeliverable, the settlement administrator shall search the National Change of Address database again for a more current

address of the Aggrieved Employee and re-mail the Aggrieved Employee's check to any alternative or updated address that is located, within five (5) calendar days.

X. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN

The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy, or bonus program sponsored by Defendants. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendants', policies, or bonus programs. Any payments made under the terms of this Resolution shall not be applied retroactively, currently, or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendants' benefit plan, policy, or bonus program. Defendants retain the right to modify the language of its benefit plans, policies, and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Resolution are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies, and bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Resolution.

XI. PLAINTIFF'S COUNSEL'S ATTORNEYS' FEES AND LITIGATION COSTS

Defendants shall not oppose an application by Plaintiffs' Counsel for, and Plaintiffs' Counsel shall not seek or receive an amount in excess of SIXTEEN THOUSAND FIVE HUNDRED DOLLARS and ZERO CENTS (\$16,500), which represents 33% of the Settlement Amount for all past and future attorneys' fees necessary to prosecute, settle, and administer the Litigation and this Resolution.

PAGA Counsel's request for reimbursement of Litigation costs is in the amount up to \$8,000. Any attorneys' fees or Litigation costs awarded to Plaintiffs' Counsel by the Court shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount. This amount shall include all attorneys' fees, Litigation costs, and expenses for which Named Plaintiff and Plaintiffs' Counsel could claim under any legal theory whatsoever. Should the Court approve a lesser percentage or amount of fees and/or Litigation costs than the amount that Plaintiffs' Counsel ultimately seeks, then the unapproved portion or portions shall revert to the Net Settlement Amount.

XII. TAXATION AND ALLOCATION

For withholding tax characterization purposes and payment of taxes, the Net Settlement Amount shall be deemed and is allocated by the Parties as follows ("Net Settlement Allocation"): 100% as penalties.

All PAGA Group members who cash their settlement check may receive an IRS Form 1099 for their portion of the settlement from the Settlement Administrator, if deemed required by the Settlement Administrator (in compliance with IRS guidelines).

XIII. COURT APPROVAL

This Agreement and the Resolution is contingent upon Approval by the Court. Named Plaintiff and Defendants agree to take all steps as may be reasonably necessary to secure Approval of the Resolution, to the extent not inconsistent with the terms of this Agreement, and will not take any action adverse to each other in obtaining Court Approval of the Resolution in all respects.

XIV. APPRAISAL AND CERTIFICATION BY THE SETTLEMENT ADMINISTRATOR

The Settlement Administrator shall keep Plaintiff's Counsel and Defendants' Counsel apprised of all distributions from the Settlement Amount. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to Plaintiff's Counsel and Defendants' Counsel. The Settlement Administrator shall also provide Defendants with a final accounting, including the names of payees and Net Settlement Payments.

XV. MISCELLANEOUS PROVISIONS

A. Stay of Litigation.

The Parties agree that upon full execution of this Settlement, the matter is stayed in its entirety except for any filings and/or motion work necessary to attain Court approval of the Settlement. Should the Court not grant the Motion For Approval of PAGA Representative Action Settlement, or of the Stipulation For Approval Of The PAGA Representative Action Settlement, the stay will be lifted thirty (30) days thereafter and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void. Upon mutual agreement by the Parties, after this thirty (30) days expires, the Parties may agree to additional extensions of this stay in order to work towards obtaining Court approval, and this agreement between the Parties must be in writing.

B. Interpretation of the Agreement.

This Agreement constitutes the entire agreement between Named Plaintiff and Defendants. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary, or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the laws

of the State of California, both in its procedural and substantive aspects, without regard to its conflict of law's provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California for the County of Los Angeles and Named Plaintiff and Defendants hereby consent to the personal jurisdiction of the Court over them solely in connection therewith. The foregoing is only limited to disputes concerning this Agreement and in no way limits or negates the enforceability and effect of any other agreements signed by employees of Defendants. Named Plaintiff, on her own behalf and on behalf of the State of California and of the PAGA Group, and Defendants participated in the negotiation and drafting of this Agreement and had available to them the advice and assistance of independent counsel. As such, neither Named Plaintiff nor Defendants may claim that any ambiguity in this Agreement should be construed against the other.

The terms and conditions of this Agreement constitute the exclusive and final understanding and expression of all agreements between Named Plaintiff and Defendants with respect to the Resolution of the Litigation. The Agreement may be modified only by a writing signed by counsel for all Parties or their successors-in-interest.

C. Further Cooperation.

Named Plaintiff and Defendants and their respective attorneys shall proceed diligently to prepare and execute all documents, to seek Approval from the Court, and to do all things reasonably necessary or convenient to consummate the Agreement as expeditiously as possible.

D. Confidentiality of Documents.

Named Plaintiff, the Settlement Administrator, and Plaintiffs Counsel shall maintain the confidentiality of all documents, deposition transcripts, declarations, and other information

obtained in the Litigation, unless necessary for appeal or such documents are ordered to be disclosed by the Judge or by a subpoena.

E. Counterparts.

The Agreement may be executed in one or more actual or non-original counterparts, all of which will be considered one and the same instrument and all of which will be considered duplicate originals.

F. Authority.

Each individual signing below warrants that he or she has the authority to execute this Agreement on behalf of the party for whom or which that individual signs.

G. No Third-Party Beneficiaries.

Named Plaintiff, members of the PAGA Group, Defendants, and Release Parties are direct beneficiaries of this Agreement, but there are no third-party beneficiaries.

H. Force Majeure.

The failure of any party to perform any of its obligations hereunder shall not subject such party to any liability or remedy for damages, or otherwise, where such failure is occasioned in whole or in part by acts of God, fires, accidents, earthquakes, other natural disasters, explosions, floods, wars, interruptions or delays in transportation, power outages, labor disputes or shortages, shortages of material or supplies, governmental laws, restrictions, rules or regulations, sabotage, terrorist acts, acts or failures to act of any third parties, or any other similar or different circumstances or causes beyond the reasonable control of such party.

I. Deadlines Falling on Weekends or Holidays.

To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

J. Severability.

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense Counsel and Plaintiffs Counsel, on behalf of the Parties and the PAGA Group, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

K. Defendants' Fees and Costs.

All of Defendants' own legal fees, costs, and expenses incurred in this Action shall be borne by Defendants.

L. No Prior Assignments.

The Parties and their counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

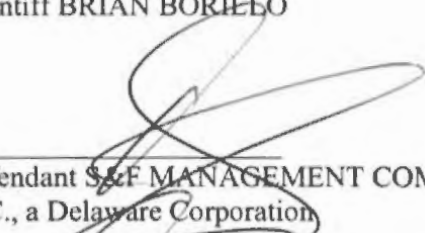
[Signatures to follow on next page]

Dated: April 28 2022



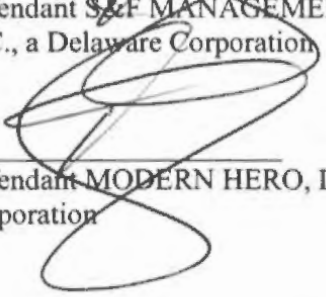
Plaintiff BRIAN BORILLO

Dated: April 25 2022



Defendant S&F MANAGEMENT COMPANY,
INC., a Delaware Corporation

Dated: April 25 2022



Defendant MODERN HERO, INC., a California
Corporation

APPROVED AS TO FORM ONLY

Dated: April 26 2022

/s/ Haig B. Kazandjian

Haig B. Kazandjian, Esq.
Cathy Gonzalez, Esq.
Kevin P. Crough, Esq.
Attorneys for PLAINTIFF BRIAN BORILLO

Dated: April _____ 2022



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Attorneys for DEFENDANTS S&F
MANAGEMENT COMPANY, INC. and
MODERN HERO, INC.
