

Sarkis Sirmabekian [SBN 278588]
SIRMABEKIAN LAW FIRM, PC
3435 Wilshire Blvd., Suite 1710
Los Angeles, California 90010
Telephone: (818) 473-5003
Facsimile: (818) 476-5619
Email: contact@slawla.com

Attorney for Plaintiff and the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

VICTOR BERDUO LOPEZ, an individual;
on behalf of himself and all others similarly
situated;

Plaintiff,

v.

DEMEJICO, INC., a California Corporation;
and DOES 1 through 20, inclusive;

Defendants.

Case Number: 21STCV47543

[Honorable Stuart M. Rice; Department. 1]

**DECLARATION OF SARKIS SIRMABEKIAN,
ESQ. IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

*[Filed concurrently with Plaintiff's Notice of Motion
and Motion for Preliminary Approval; and
[Proposed] Order]*

Hearing:

Date: December 21, 2022

Time: 10:30 a.m.

Dept.: 1

Complaint Filed: December 29, 2021

I, SARKIS SIRMABEKIAN, declare as follows:

1. I am an attorney licensed to practice law in the State of California and counsel to the named Plaintiff VICTOR BERDUO LOPEZ ("Plaintiff") in the above-captioned matter.
2. This Declaration is submitted in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. The following facts are within my personal knowledge and, if called as a witness herein, I can and will competently testify hereto.

3. Class Counsel almost exclusively prosecutes wage and hour actions (including class actions) on behalf of hard-working California employees. Class Counsel, either on its own or with co-counsel, has served or are currently serving as Plaintiff's counsel of record in numerous different wage and hour class action cases. Thus, Class Counsel has extensive experience in similar litigation.
4. Furthermore, Class Counsel has trial experience, and has extensive wage and hour experience in litigation, law and motion, deposition, and discovery.
5. As counsel for Plaintiff, I have been intimately involved in every aspect of this case from inception to the present.
6. This matter was initially filed (on 11/17/2021) with the Los Angeles Superior Court Stanley Mosk Courthouse, case number 21STCV42499, as an individual and PAGA lawsuit alleging wage and hour violations against Defendant, including claims under Labor Code 2699 et seq (PAGA). However, the Parties later agreed to settle the case as a class action lawsuit.
7. On December 29, 2021, Plaintiff filed this action against Defendant with the Los Angeles Superior Court Spring Street Courthouse (case number 21STCV47543), alleging violations of California wage and hour law. The operative Complaint alleges causes of action for: (1) Failure to Pay Minimum Wage (Cal. Lab. Code §§ 1182.12, 1194, 1197 & 1198, et seq.); (2) Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 1198 & 510, et seq.); (3) Failure to Pay Meal Period Compensation (Cal. Lab. Code §§ 226.7, 512(a) & 1198 et seq.); (4) Failure to Pay Rest Period Compensation (Cal. Lab. Code §§ 226.7 & 1198 et seq.); (5) Failure to Pay Wages Upon Discharge (Cal. Lab. Code §§ 201 & 202, et seq.); (6) Failure to Furnish Accurate Wage and Hour Statements (Cal. Lab. Code § 226); (7) Failure to Indemnify (Cal. Lab. Code §2802); (8) Unfair Competition (Business and Professions Code § 17200 et seq.); and (9) Violation of the Private Attorneys General Act of 2004 (California Labor Code §2698, et seq.);
8. On March 7, 2022, Defendant DEMEJICO, INC. filed a Notice of Appearance.
9. On April 1, 2022, Plaintiff filed a Notice of Related Case, relating the two matters (21STCV42499 and 21STCV47543(lead)).

1 10. On September 14, 2022, the Parties came to an agreement to settle both Plaintiff's individual
2 and class claims, in which the Parties stipulated to the material terms of the Settlement
3 Agreement now before this Court. Attached hereto as "**EXHIBIT 1**" is a true and correct copy
4 of the "Joint Stipulation of Class Action Settlement" document, fully executed on September
5 14, 2022 ("Settlement Agreement"). The settlement discussions were conducted at arm's
6 length, and the settlement is the result of an informed and detailed analysis of Defendant's
7 potential liability of total exposure in relation to the costs and risks associated with continued
8 litigation.

9 11. Class Counsel has diligently investigated the facts and claims alleged in the lawsuit, including
10 a thorough analysis of voluminous documents, interviews of putative Class Members, and an
11 analysis of the time and pay data informally produced by Defendant prior to and during the
12 negotiations. Based on their independent investigation and evaluation, Plaintiff and Class
13 Counsel believe that this Settlement is fair, reasonable, and adequate and is in the best interest
14 of the Class Members in light of all known facts and circumstances, including the risk of
15 significant delay and uncertainty associated with litigation, various defenses asserted by
16 Defendant, and numerous potential appellate issues.

17 12. The Parties expressly acknowledge that the Settlement Agreement was entered into solely for
18 the purpose of compromising significantly disputed claims and that nothing in the Settlement
19 Agreement is an admission of liability or wrongdoing by Defendant. Prior to the agreement to
20 settle, the Parties informally exchanged voluminous information, including production of time
21 and pay records for a random sample of Class Members, policies, paystub exemplars, and class
22 information. The Settlement Agreement was a result of the Parties' arms-length negotiations.

23 13. On October 20, 2022, the Superior Court of California for the County of Los Angeles ordered
24 that the Individual/PAGA Action and Class Action be related and then consolidated for all
25 purposes, with the Class Action designated as the lead case.

26 14. Class Counsel is not aware of any class, representative or other collective action in any other
27 court in this or any other jurisdiction that asserts claims similar to those asserted in this action
28

1 on behalf of a class or group of individuals some or all of whom would also be members of the
2 class defined in this action.

3 15. The basic terms of the Joint Stipulation of Class Action Settlement (“Settlement Agreement”)
4 provide for the following:

5 (1) A Gross Settlement Amount (the “Gross Settlement Fund”) of Forty Thousand
6 Dollars and Zero Cents (\$40,000.00);

7 (2) Reasonable attorneys’ fees of up to, and not in excess of, 33.33% of the Gross
8 Settlement Amount in the amount of Thirteen Thousand Three Hundred and Thirty-
9 Three Dollars and Thirty-Three Cents (\$13,333.33);

10 (3) Reimbursement of any costs and expenses incurred from prosecution of this action by
11 Class Counsel of up to One Thousand Five Hundred Dollars (\$1,500.00), which shall
12 be paid from the Gross Settlement Fund;

13 (4) A Class Representative Enhancement Payment up to Five Thousand Dollars and No
14 Cents (\$5,000.00) from the Gross Settlement Fund;

15 (5) Claims Administration Expenses (Claims Administration Costs) not to exceed Five
16 Thousand Dollars and No Cents (\$5,000.00) to be paid out of the Gross Settlement
17 Funds;

18 (6) An LWDA/PAGA Payment shall be allocated and paid from the Gross Settlement
19 Fund in the amount of Five Thousand Dollars and No Cents (\$5,000.00) to the
20 resolution of any Class Members’ claims arising under PAGA. Seventy-five percent
21 (75%) of this sum (\$3,750.00) will be paid to the California Labor Workforce
22 Development Agency (“LWDA”), and the remaining twenty-five (25%) (\$1,250.00)
23 to Participating Class Members.

24 (7) The Class is estimated to consist of approximately twenty-five (25) individuals.

25 16. Under the terms of the Settlement Agreement, the Parties agree that “Claims Administrator”
26 means Phoenix Settlement Administrators or any other third-party class action settlement
27 claims administrator agreed to by the Parties and approved by the Court for the purposes of
28 administering this Settlement. The Parties each represent that they do not have any financial

- 1 interest in the Claims Administrator or otherwise have a relationship with the Claims
2 Administrator that could create a conflict of interest.
- 3 17. The Claims Administrator has extensive experience administering these types of settlements.
4 Administration costs are currently estimated to not exceed Five Thousand Dollars and No
5 Cents (\$5,000.00).
- 6 18. The Proposed Class is numerous and ascertainable. The proposed Settlement Class consists of
7 “Plaintiff and all current and former hourly non-exempt employees of Defendant within
8 California at any time during the period from November 17, 2017 through November 30,
9 2022.” The Class consists of 25 individuals, making joinder of all Class Members
10 impracticable. Further, the class is readily ascertainable from Defendants’ business records
11 because all Class Members are current or former employees of Defendants.
- 12 19. There are common questions of law and fact including, but not limited to, the following:
13 Whether Defendants failed to pay the minimum wage; Whether Defendants failed to
14 compensate for all hours worked; Whether Defendants failed to provide meal periods or pay
15 meal period premiums in lieu thereof; Whether Defendants failed to provide rest periods or
16 pay meal period premiums in lieu thereof; Whether Defendants failed to provide proper wage
17 statements to Class Members; Whether Defendants failed to furnish accurate wage and hour
18 statements; Whether Defendants failed to pay Class Members’ wages upon termination, giving
19 rise to waiting time penalties; Whether Defendants failed to pay overtime to Class Members;
20 Whether Defendants engaged in unfair or unlawful business practices; and Whether
21 Defendants failed to comply with Private Attorneys General Act.
- 22 20. Plaintiff’s claims are typical of the class claims. Plaintiff alleges that Defendants maintained
23 company-wide employment practices that deprived Class Members of minimum wages,
24 overtime wages, meal period compensation and/or rest period compensation.
- 25 21. Plaintiff’s allegations present common legal and factual questions of, inter alia, whether
26 Defendant applied the same policies and/or practices regarding the foregoing to all Class
27 Members; whether those policies and/or practices or their implementation resulted in violations
28 of various laws; whether Defendant’s conduct was intentional; and whether Class Members

are entitled to penalties. These questions could be resolved by using Defendant's payroll records, testimony from Class Members, and testimony from corporate representatives.

22. Plaintiff and Plaintiff's Counsel will adequately represent the interests of the proposed class. Plaintiff's interests are coextensive with the interests of the Class. Plaintiff has already demonstrated his ability to advocate for the interests of the Class by initiating this litigation and obtaining a fair settlement on behalf of himself and Class Members. Likewise, the Sirmabekian Law Firm, PC have expended considerable time and effort on this case and will continue to do so through final approval.

23. A class action is superior to a multitude of individual lawsuits. Here, the Class Members had little incentive to litigate wage and hour claims on an individual basis where the out-of-pocket expense and personal commitment would outweigh the potential recovery. Thus, a class action is the superior method of seeking relief.

24. The settlement is entitled to a presumption of fairness. Here, the settlement is the results of arm's-length negotiations. Class Counsel conducted sufficient investigation and discovery. Plaintiff's Counsel conducted significant investigation of the facts and law during the prosecution of this action. In particular, Plaintiff's Counsel assessed the value of the class claims using production by Defendants of applicable policies and procedures and a sampling of data relevant to class claims. Plaintiff's Counsel analyzed all facts, theories, data, documents and information on which the Action is based to determine the merits of the class claims.

25. Further, Plaintiff's Counsel interviewed and investigated the claims alleged in this lawsuit by speaking to Class Members, conducting interviews and gathering necessary declarations needed for class certification, and obtained time and payroll records to assess damages before mediation.

26. Accordingly, Plaintiff's Counsel fully understood the strengths and weaknesses of the class claims before the parties reached the Settlement.

27. As of July 14, 2022, there are 25 current and former hourly employees and a total of 1448 workweeks at issue. Participating Class Members will recover based on their actual # of

1 workweeks worked during the Class Period. This is a significant recovery for low-wage
2 California workers at this early juncture of the litigation.

3 28. In addition, the amount of \$1,250 will be distributed to eligible class members in the form of
4 25% of the net PAGA penalties.

5 29. Plaintiff VICTOR BERDUO assisted counsel in gathering the evidence necessary to prosecute
6 the class claims, met with Class Counsel to prepare for mediation, maintained regular contact
7 with counsel, and reviewed the Settlement to make sure it was fair to the class.

8 30. No action would likely have been taken by Class Members individually, and no compensation
9 would have been recovered for them, but for Plaintiff's service on behalf of the Class Members.

10 31. Moreover, the amount of the incentive award was not negotiated until after the parties agreed
11 to the Gross Settlement Amount.

12 32. Plaintiff's Counsel calculated Defendants' total potential exposure assuming Plaintiff
13 prevailed on all aspects of his claims at trial but weighed the value against the chance of
14 succeeding at class certification and trial.

15 33. Plaintiff's Counsel estimate of the total amount of damages, monetary penalties or other relief
16 that the class could reasonably expect to be awarded at trial, taking into account the likelihood
17 of prevailing and other risk totals. These estimates were carefully weighed against the
18 continued risk of proceeding to trial on the merits and failing to prevail on claims. These
19 estimates were further carefully weighed against the likelihood of the Court granting
20 certification to some or all of Plaintiff's claims. Plaintiff, along with the advice of his counsel,
21 weighed the benefits of putting money into the pockets of several hundred California
22 employees within several months, with the cost and risk of continued litigation, and the
23 possibility of appeal.

24 34. Defendant disputed the statistical analysis prepared by Plaintiff and also asserted that their
25 meal period policies were compliant with California law and that it did not prevent employees
26 from taking their timely meal periods. Defendants further contended that any analysis of
27 alleged unpaid overtime and unreimbursed business expenses would require an individualized
28

inquiry of each employee to determine whether there was any liability, such that class certification would not be proper for these claims.

35. Furthermore, Plaintiff realizes penalties are extremely discretionary, and are subject to immense reduction by the Court, based on various factors that are different with each court. It is additionally important to note that Defendant will claim penalties are derivative of the alleged failure to pay overtime wages and reimbursement of overtime wages described above. Should Plaintiff fail to prevail on their claims for damages, then the class would not be entitled to penalties. This decreases the chances of ultimately obtaining an award of penalties, and factored into Plaintiff's analysis of weighing risks and benefits of settlement at this juncture.

36. Defendant will further contend that wage statement penalties were not the result of a "knowing and intentional failure" by Defendant to comply with *Cal. Lab. Code § 226(a)* as required by the statute, and that the employees did not suffer injury for purposes of recovering penalties as required under *Cal. Lab. Code § 226(e)(2)(B)(i) and (ii)*. Defendant will further contend that the alleged failure to timely pay final wages was derivative of the claims that are in dispute, such that there was not a willful showing that the employer knew of its obligation and intentionally refused to act.

37. In this case, Plaintiff's Counsel heavily discounted the PAGA claim based on the risk that Defendant would convince the Court to dramatically reduce the PAGA penalties because Defendant made efforts to comply with wage and hour laws through its employee handbook and there was no evidence that Defendant acted with reckless disregard regarding the alleged claims.

38. However, even if the Court did not reduce the award based on discretionary factors, Defendant could argue that the "subsequent violations" under PAGA only start to accrue after employers receive notice through a citation from the Labor Commissioner. In that scenario, the PAGA penalties would reach only aggrieved employees following the submission.

39. The gross settlement amount Defendant shall have to pay in connection with this Settlement is \$40,000.00. Class Counsel considers this to be an excellent settlement for class members, when

1 taking into account all issues and risks related to liability and class certification, and also
2 considering the case law regarding fair, reasonable, and adequate settlements.

3 40. Plaintiff's Counsel believes that mail is the best practicable method of providing notice
4 compared to alternatives, like email or by publication since the last known address provides
5 the most complete set of records available to reach Class members (i.e., phone numbers and
6 email addresses may not be available for all Class Members). In addition, the option to skip
7 trace by the Claims Administrator improves the overall effectiveness of mailing the Notice
8 Packet to Class Members.

9 41. Further, and pursuant to the Settlement Agreement, the Parties stipulate to class certification
10 for purposes of this Settlement only.

11 42. Class Counsel does not have any financial interest in the Claims Administrator or otherwise
12 have a relationship with the Claims Administrator that could create a conflict of interest.

13
14 I declare under penalty of perjury under the laws of the State of California that the foregoing
15 declaration is true and correct. Executed November 23, 2022, at Los Angeles, California.

16
17 By: 
18 Sarkis Sirmabekian, Esq.

EXHIBIT 1

1 Sarkis Sirmabekian, SBN 278588
2 **SIRMABEKIAN LAW FIRM, PC**
3 3435 Wilshire Blvd., Suite 1710
4 Los Angeles, California 90010
5 Telephone: (818) 473-5003
6 Facsimile: (818) 476-5619
7 E-mail: contact@slawla.com
8 *Attorneys for Plaintiff Victor Berduo Lopez on*
9 *behalf of himself and all others similarly*
10 *situated*

11 Michael H. Brody, SBN 238757
12 **LIGHTGABLER**
13 760 Paseo Camarillo Ste 300
14 Camarillo, California 93010
15 Direct Phone: (805) 248-7418
16 Facsimile: (805) 248-7427
17 Email: mbrody@lightgablerlaw.com
18 *Attorneys for Defendant Demejico, Inc.*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

VICTOR BERDUO LOPEZ, on behalf of
himself and all other similarly situated,

Plaintiff,

v.

DEMEJICO, INC., a California Corporation;
and DOES 1 through 20, inclusive;

Defendants.

CASE NO.: 21STCV47543

[Assigned for all purposes to the Hon.
Stuart M. Rice - Dept. 1]

**JOINT STIPULATION FOR CLASS
ACTION SETTLEMENT**

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1 TO THE COURT:

2 This Joint Stipulation for Class Action Settlement (“Settlement Agreement” or
3 “Settlement”) is made and entered into by and between Victor Berduo Lopez (“Plaintiff”),
4 individually and on behalf of all others similarly situated, and Demejico, Inc. (“Defendant”)
5 (collectively, the “Parties”), and is subject to the terms and conditions below, and to the Court’s
6 approval. The Parties expressly acknowledge that this Settlement Agreement is entered into
7 solely for the purpose of compromising significantly disputed claims and that nothing in this
8 Settlement Agreement is an admission of liability or wrongdoing by Defendant. If for any
9 reason the Settlement Agreement is not approved, it will be of no force or effect, and the Parties
10 will be returned to their respective positions immediately prior to and as if they had never
11 executed this Settlement Agreement as more fully set forth below.

12 DEFINITIONS

13 The following definitions are applicable to this Settlement Agreement. Definitions
14 contained elsewhere in this Settlement Agreement will also be effective:

15 1. “Action” shall mean the civil action entitled *Victor Berduo Lopez, et al. v.*
16 *Demejico, Inc.*, filed in the Superior Court for the County of Los Angeles on or about
17 December 29, 2021, designated as Case No. 21STCV47543.

18 2. “Claims Administrator” means Phoenix Settlement Administrators, or any other
19 third-party class action settlement claims administrator agreed to by the Parties and approved
20 by the Court for the purposes of administering this Settlement. The Parties each represent that
21 they do not have any financial interest in the Claims Administrator or otherwise have a
22 relationship with the Claims Administrator that could create a conflict of interest.

23 3. “Claims Administration Expenses” means the costs payable to the Claims
24 Administrator for administering this Settlement, including, but not limited to, printing,
25 conducting a National Change of Address (“NCOA”) search, distributing (including with
26 appropriate postage), and tracking documents for this Settlement, any searches to locate any
27 Class Members, tax reporting, distributing the Individual Settlement Payments, Class
28 Representatives Enhancement Payment, Class Counsel Fees and Costs, and providing necessary

1 certification of completion of notice, reports and declarations, establishing and administering a
2 qualified settlement fund account and other responsibilities set forth in this Settlement
3 Agreement and as requested by the Parties. The Claims Administration Expenses will not
4 exceed \$5,000.00.

5 4. "Class Counsel" means Sirmabekian Law Firm, PC.

6 5. "Class Counsel Fees and Costs" means attorneys' fees, costs, and expenses
7 approved by the Court for Class Counsel's litigation and resolution of the Action, and all costs
8 incurred and to be incurred by Class Counsel in the Action, including, but not limited to, costs
9 associated with documenting the Settlement, providing any notices required as part of the
10 Settlement or Court order, securing the Court's approval of the Settlement, administering the
11 Settlement, and obtaining entry of the Judgment terminating the Action. Class Counsel will
12 request attorneys' fees of not to exceed 33.33% of the Gross Settlement Amount or Thirteen
13 Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$13,333.33) and
14 litigation costs and expenses not to exceed One Thousand Five Hundred Dollars (\$1,500.00).
15 Defendant has agreed not to oppose Class Counsel's request for Class Counsel Fees and Costs.

16 6. "Class List" means a complete list of all Class Members that Defendant will
17 diligently and in good faith compile from its records and provide on a confidential basis to the
18 Claims Administrator within fifteen (15) calendar days after the Court's entry of an order
19 granting preliminary approval of this Settlement. The Class List will be formatted in Microsoft
20 Office Excel and Defendant will use their best efforts to include each Class Member's full
21 name; most recent mailing address; last known telephone number if readily available; dates of
22 employment or number of workweeks worked during the Class Period; and Social Security
23 number.

24 7. "Class Member(s)" or "Settlement Class" means Plaintiff and all current and
25 former hourly non-exempt employees of Defendant within California at any time during the
26 Class Period.

27 8. "Class Period" means the period from November 17, 2017 through November
28 30, 2022. "Aggrieved Employees' Class Period" means the period from November 17, 2020

1 through November 30, 2022.

2 9. "Class Representative Enhancement Payment" means the amount to be paid from
3 the Gross Settlement Amount to the named Plaintiff in exchange for executing a general release
4 and in recognition of their effort in prosecuting the Action on behalf of Class Members.
5 Plaintiff will request and Defendant will not oppose Plaintiff's application to the court for a
6 payment of Five Thousand Dollars (\$5,000) for his willingness to serve as Class
7 Representative.

8 10. "Court" means the Los Angeles County Superior Court, or any other court taking
9 jurisdiction of the Action.

10 11. "Effective Date" means the date when the Final Approval Order becomes final
11 and Defendant fully funds the Gross Settlement Amount. For purposes of this Paragraph, the
12 Final Approval Order "becomes final" upon the last to occur of the following: (a) if there are no
13 objections to the Settlement, the date the Court enters an order granting final approval of the
14 Settlement; or (b) if there are objections to the Settlement, and if an appeal, review, or writ is
15 not sought from the Final Approval Order, the day after the time period to appeal the Settlement
16 has expired, i.e., 60 days from the date the Court enters an order granting final approval of the
17 Settlement.

18 12. "Gross Settlement Amount" means the maximum settlement amount of Forty
19 Thousand Dollars and Zero Cents (\$40,000.00) ("Gross Settlement Amount"), which has been
20 and/or will be paid by Defendant in full satisfaction of all claims arising from the Action. The
21 Gross Settlement Amount includes all Individual Settlement Payments to Participating Class
22 Members, the Class Representative Enhancement Payment, Claims Administration Expenses,
23 Class Counsel Fees and Cost, and PAGA penalties in the amount of Fifty Thousand Dollars
24 (\$5,000.00) of which 75% or Thirty-Seven Thousand Five Hundred Dollars (\$3,750.00) will be
25 paid to the Labor Workforce Development Agency ("LWDA") and 25% or Twelve Thousand
26 Five Hundred Dollars (\$1,250.00) to Participating Class Members. Defendant will pay the
27 employer's share of payroll taxes, as applicable, in addition to the Gross Settlement Amount.

28 13. "Individual Settlement Payment" means each Participating Class Member's

1 share of the Net Settlement Amount, to be distributed to Plaintiff and Class Members who do
2 not request exclusion from the settlement.

3 14. "Net Settlement Amount" means the maximum amount available for distribution
4 to the Class Members, after deduction of Class Counsel Fees and Costs, Class Representative
5 Enhancement Payment, Claims Administration Expenses, and \$3,750.00 as PAGA penalties
6 from the Gross Settlement Amount.

7 15. "Notice of Objection" means a Class Member's valid and timely written
8 objection to the Settlement Agreement. For the objection to be valid, it must include: (i) the
9 objector's full name, signature, address, and telephone number; (ii) a written statement of all
10 grounds for the objection accompanied by any legal support for such objection; (iii) copies of
11 any papers, briefs, or other documents upon which the objection is based; and (iv) a list of all
12 persons who will be called to testify in support of the objection. Further, an objector may
13 appear at the Final Approval hearing, either in person or through counsel, at his or her expense.
14 The Parties will be permitted to respond in writing to such objections at least seven calendar
15 days prior to the Final Approval hearing or within the time period set by the Court.

16 16. "Notice" means the Notice of Class Action Settlement, substantially in the form
17 attached as Exhibit A.

18 17. "Participating Class Members" means all Class Members who do not submit
19 valid Requests for Exclusion.

20 18. "Preliminary Approval" means the Court order granting preliminary approval of
21 the Settlement Agreement.

22 19. "Released Claims" means all *California* wage and hour claims, penalties,
23 interest, and causes of action, arising from or related to the claims pled in Plaintiff's operative
24 complaint ("Complaint") or that could have been pled in the Complaint based on the factual
25 allegations pled in the Complaint, including (a) failure to pay all overtime wages; (b) failure to
26 pay all minimum wages (c) failure to compensate for all hours worked; (d) failure to provide
27 proper meal periods; (e) failure to authorize and permit rest periods; (f) failure to furnish
28 accurate wage statements; (g) failure to reimburse employees for business expenses and illegal

1 deductions from wages; (h) failure to timely pay final wages upon discharge; (i) statutory
2 penalties; (j) retaliation; (k) any violations of Labor Code sections 200, 201-203, 204, 206, 216,
3 218.5, 218.6, 221, 226 *et seq.*, 226.3, 226.7, 226.8, 246, 432.5, 450, 510, 512, 558, 1174,
4 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2802, 2698, or applicable wage order(s), unfair
5 competition claims under California Business & Professions Code §17200 *et seq.* based on the
6 labor code violations alleged or which could have been alleged in the Complaint, civil penalties
7 pursuant to Labor Code §2699 *et seq.* based on the labor code violations alleged or which could
8 have been alleged in the Complaint, and any penalties, restitution, disgorgement, interest or
9 attorneys' fees. This release will cover all Class Members who do not opt out, with the
10 exception of claims for PAGA penalties as there is no ability to opt out of a PAGA suit.

11 20. "Released Parties" means Defendant and Defendant's former and present
12 parents, subsidiaries and affiliated companies and entities, franchisors and franchisees, and its
13 current, former, and future owners, officers, shareholders, directors, members, managers,
14 operators, employees, consultants, vendors, partners, affiliates, subsidiaries, shareholders,
15 attorneys, insurers, payroll providers, joint venturers and agents, and any successors, assigns, or
16 legal representatives, and all jointly or potentially jointly liable parties.

17 21. "Request for Exclusion" means a timely letter submitted by a Class Member
18 indicating a request to be excluded from the Settlement. The Request for Exclusion must: (a)
19 set forth the name, address, telephone number and last four digits of the Social Security
20 Number of the Class Member requesting exclusion; (b) be signed by the Class Member; (c) be
21 returned by mail or fax to the Claims Administrator at the specified address or fax number
22 indicated in the Notice; (d) clearly state that the Class Member does not wish to be included in
23 the Settlement; and (e) be faxed or postmarked on or before the Response Deadline. A timely
24 Request for Exclusion submitted by a Class Member shall have no effect on the PAGA portion
25 of this Action as there is no ability to opt out of a PAGA suit.

26 22. "Response Deadline" means the deadline by which Class Members must fax or
27 postmark to the Claims Administrator a valid Request for Exclusion, submit objections to the
28 Settlement or dispute workweeks. The Response Deadline will be forty-five (45) calendar days

1 from the initial mailing of the Notice by the Claims Administrator. The Response Deadline for
2 Request for Exclusion, objection or dispute workweeks will be extended fifteen (15) calendar
3 days for any Class Member who is re-mailed a Notice by the Claims Administrator in
4 accordance with the notice procedure described in Paragraphs 34 through 37 of this Settlement
5 Agreement. The Response Deadline may also be extended by express agreement between Class
6 Counsel and Defendant's counsel.

7 TERMS OF AGREEMENT

8 Plaintiff, on behalf of himself and the Settlement Class, and Defendant agree as follows:

9 23. Impact of Any Court Determination Not to Enter Final Approval Order. In the
10 event that the Court does not enter a Final Approval Order and this Settlement Agreement does
11 not become effective, the following will occur:

- 12 a. on the date final approval is denied, the status of the Action will be
13 deemed to return to its status at the time immediately prior to and as if the
14 Parties had never executed this Settlement Agreement; and
15 b. Defendant will pay the Claims Administrator for any reasonable costs
16 actually incurred by the Claims Administrator, not to exceed \$5,000.00.

17 24. Settlement Funding. Within thirty (30) calendar days of the Effective Date,
18 Defendant shall deposit the Gross Settlement Amount in the amount of Forty Thousand Dollars
19 and Zero Cents (\$40,000.00). The payment shall be deposited with the Claims Administrator
20 who will deposit the funds into an interest-bearing trust account referred to as the Qualified
21 Settlement Fund account from which the Claims Administrator will have authority to distribute
22 money in accordance with the terms of this Settlement Agreement. The employer's share of the
23 payroll taxes, which shall be paid in addition to the Gross Settlement Amount, will be made
24 with the assistance of the Claims Administrator to calculate the appropriate amount of the
25 employer's share of the payroll taxes.

26 25. Class Counsel Fees and Costs. Defendant agrees not to oppose or impede any
27 application or motion by Class Counsel for Class Counsel Fees in the amount of up to Thirteen
28 Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$13,333.33), plus the

1 reimbursement of the actual costs and expenses associated with Class Counsel's litigation and
2 settlement of the Action, not to exceed One Thousand Five Hundred Dollars (\$1,500.00). In
3 consideration of their awarded attorneys' fees and costs and expenses, Plaintiff and Class
4 Counsel waive any and all claims to any further attorneys' fees and expenses in connection with
5 the Action.

6 26. Class Representative Enhancement Payment. In exchange for named Plaintiff's
7 executing a general release, and in recognition of his effort in prosecuting the Action on behalf
8 of Class Members, Defendant agrees not to oppose or impede any application or motion for a
9 Class Representative Enhancement Payment of up to Five Thousand Dollars (\$5,000). The
10 Class Representative Enhancement Payment, which will be paid from the Gross Settlement
11 Amount, will be in addition to Plaintiff's Individual Settlement Payment paid pursuant to the
12 Settlement. Plaintiff will be solely and legally responsible to pay any and all applicable taxes,
13 penalties and interest on the payment made pursuant to this paragraph and will hold Defendant
14 harmless from any claim or liability for taxes, penalties, or interest arising as a result of the
15 payment.

16 27. Claims Administration Expenses. The Claims Administrator will be paid for the
17 reasonable fees and costs of administration of the Settlement, which are estimated not to exceed
18 \$5,000.00. These will include, *inter alia*, fees and costs payable to the Claims Administrator
19 for printing, distributing (including with appropriate postage), and tracking documents for this
20 Settlement, any searches to locate any Class Members, calculating estimated amounts per Class
21 Member, tax reporting, distributing the Individual Settlement Payments, Class Representative
22 Enhancement Payment, Class Counsel Fees and Costs, payment to LWDA for PAGA penalties,
23 and providing necessary certification of completion of notice, reports and declarations,
24 establishing and administering a Qualified Settlement Fund account, required tax reporting on
25 the Individual Settlement Payments, the issuing of 1099 and W-2 IRS forms, calculating the
26 employer's share of payroll taxes on the wage portion of the Individual Settlement Payments
27 and coordinating related reporting, and other responsibilities as requested by the Parties. The
28 Claims Administration Expenses will be paid from the Gross Settlement Amount.

28. Net Settlement Amount. The Net Settlement Amount will be used to satisfy Individual Settlement Payments to Participating Class Members from the Settlement Class in accordance with the terms of this Agreement.

29. Individual Settlement Payment Calculations. Defendant will provide the Claims Administrator with the total number of workweeks for each Class Member. The Claims Administrator will divide the Net Settlement Amount by the total number of workweeks ("Work Week Rate Amount") and then multiply this amount by each Class Member's total number of workweeks to yield that employee's Net Settlement Payment. In the event a Class Member submits a timely Request for Exclusion from the settlement, his/her share of the settlement will be added to the Net Settlement Amount. For payment of PAGA penalties, the Claims Administrator will divide \$1,250.00 by the total number of workweeks in the Aggrieved Employees' Class Period, and then multiply this amount by each Class Member's total number of workweeks worked in the Aggrieved Employees' Class Period to yield that employee's share of the PAGA penalties. Class Member may not opt out of the settlement of PAGA penalties.

30.

NET
SETTLEMENT
AMOUNT

X

Participating
Class Member's
Workweeks

Total number of
Workweeks for
all Class
Members

31. No Credit Toward Benefit Plans. All Settlement Awards to Class Members shall be deemed to be income to such Class Members solely in the year in which such awards actually are received by the Class Members. It is expressly understood and agreed that the receipt of such Settlement Awards will not entitle any Class Member to additional compensation or benefits under any company bonus, paid time off (including vacation and sick leave), or other compensation or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle any Class Member to any increased retirement, 401(k) benefits or matching benefits, or deferred compensation benefits. It is the intent of this

1 Settlement that the Settlement Awards provided for in this Agreement are the sole payments to
2 be made by Defendant to the Class Members in connection with this Settlement, and that the
3 Class Members are not entitled to any new or additional compensation or benefits as a result of
4 having received the Settlement Awards (notwithstanding any contrary language or agreement in
5 any benefit or compensation plan document that might have been in effect during the period
6 covered by this Settlement).

7 32. Claims Administration Process. The Parties agree to cooperate in the
8 administration of the settlement and to make all reasonable efforts to control and minimize the
9 costs and expenses incurred in administration of the Settlement.

10 33. Delivery of the Class List. Within fifteen (15) calendar days of Preliminary
11 Approval, Defendant will provide the Class List to the Claims Administrator.

12 34. Notice by First-Class U.S. Mail. Within five (5) calendar days after receiving
13 the Class List from Defendant, the Claims Administrator will mail the Notice to all Class
14 Members via regular First-Class U.S. Mail.

15 35. Confirmation of Contact Information in the Class Lists. Prior to mailing, the
16 Claims Administrator will perform a search based on the National Change of Address Database
17 for information to update and correct for any known or identifiable address changes. Any
18 Notice returned to the Claims Administrator as non-deliverable on or before the Response
19 Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address, and
20 the Claims Administrator will indicate the date of such re-mailing on the Notice. If no
21 forwarding address is provided, the Claims Administrator will promptly attempt to determine
22 the correct address using a skip-trace, or other search using the name, address and/or Social
23 Security number of the Class Member involved, and will then perform a single re-mailing.
24 Those Class Members who receive a re-mailed Notice will have between the latter of (i) an
25 additional fifteen calendar (15) days or (ii) the Response Deadline to fax or postmark a Request
26 for Exclusion, submit an objection to the Settlement or dispute workweeks.

27 36. Notice. All Class Members will be mailed the Notice. The Notice will provide:
28 (1) information regarding the nature of the Action, (2) a summary of the Settlement's principal

1 terms, (3) the Settlement Class definition, (4) each Class Member's number of workweeks
2 worked during the Class Period, (5) each Class Member's estimated Individual Settlement
3 Payment; (6) the dates which comprise the Class Period, (7) instructions on how to submit valid
4 Requests for Exclusion, objections or dispute workweeks, (8) the deadlines by which the Class
5 Member must fax or postmark Request for Exclusions, submit objections to the Settlement or
6 dispute workweeks, and (9) the claims to be released, as set forth in this Settlement Agreement.

7 37. Request for Exclusion Procedures. Any Class Member wishing to opt out from
8 the Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the
9 Claims Administrator within the Response Deadline. The date of the fax or postmark on the
10 return mailing envelope will be the exclusive means to determine whether a Request for
11 Exclusion has been timely submitted. The Parties to this Agreement and their counsel agree that
12 they will not solicit or encourage Class Members to opt-out or object to this Settlement
13 Agreement.

14 38. Defective Submissions. If a Class Member's Request for Exclusion is defective
15 as to the requirements listed in this Settlement Agreement, that Class Member will be given an
16 opportunity to cure the defect(s). The Claims Administrator will mail the Class Member a cure
17 letter within three (3) calendar days of receiving the defective submission to advise the Class
18 Member that his or her submission is defective and that the defect must be cured to render the
19 Request for Exclusion valid. The Class Member will have until the later of (i) Response
20 Deadline or (ii) fifteen (15) calendar days from the date of the cure letter to fax or postmark a
21 revised Request for Exclusion.

22 39. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
23 Member who does not affirmatively opt out of the Settlement Agreement by submitting a
24 timely and valid Request for Exclusion will be bound by all of its terms, including those
25 pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if
26 it grants final approval to the Settlement.

27 40. Objection Procedures. To object to the Settlement Agreement, a Class Member
28 may not submit a Request for Exclusion and must mail a valid Notice of Objection to the

1 Claims Administrator by the Response Deadline. The Claims Administrator will notify counsel
2 for the Parties forthwith via email. Class Counsel will lodge the objection with the Court. The
3 Notice of Objection must be signed by the Class Member and contain all information required
4 by this Settlement Agreement. The postmark date of the mailing will be deemed the exclusive
5 means for determining that the Notice of Objection is timely. Class Members who wish to
6 object will have a right to appear at the Final Approval Hearing, with or without counsel at
7 his/her own expense, in order to have their objections heard by the Court. At no time will any
8 of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit
9 written objections to the Settlement Agreement or appeal from the Final Approval Order and
10 Judgment.

11 41. Certification Reports Regarding Individual Settlement Payment Calculations.

12 The Claims Administrator will provide Defendant's counsel and Class Counsel a weekly report
13 which certifies: (i) the number of Class Members who have submitted valid Request for
14 Exclusion and objections; and (ii) the number of any deficient Request for Exclusion.
15 Additionally, the Claims Administrator will provide to counsel for both Parties any updated
16 reports regarding the administration of the Settlement Agreement as needed or requested.

17 42. Timing of Distribution of Individual Settlement Payments. Within ten (10)

18 calendar days of Defendant depositing the Gross Settlement Amount as set forth above, the
19 Claims Administrator will issue payments to (1) Participating Class Members; (2) Plaintiff; (3)
20 Class Counsel; and payment to LWDA. The Claims Administrator will also issue a payment to
21 itself for Court-approved services performed in connection with the settlement.

22 43. Uncashed or Undeliverable Settlement Checks. Individual settlement checks

23 paid to participating Class Members will be valid for 180 days. Participating Class Members
24 will have one hundred eighty (180) calendar days from the date of issuance of the check to cash
25 their check. For any check not cashed after 180 calendar days, the Claims Administrator will
26 send the amount represented by the check to the California State Controller Unclaimed
27 Property, with the identity of the Participating Class Member to whom the funds belong, to be
28 held for the participating Class Member per California Unclaimed Property Law, in the interest

1 of justice. The money paid to the California State Controller Unclaimed Property will remain
2 the Participating Class Member's property. This will allow Participating Class Members who
3 did not cash their checks to collect their Individual Settlement Amounts at any time in the
4 future. Therefore, there will be no unpaid residue or unclaimed or abandoned class member
5 funds, and the California Code of Civil Procedure section 384 shall not apply. The funds will
6 be held by the State until claimed by the employee and the uncashed check never ceases to be
7 the employee's property.

8 44. Increase in Workweeks. Defendant represents that that there are approximately
9 1,448 total workweeks through July 14, 2022. In the event that the actual number of pay
10 periods exceeds 1,448 at the end of the Class Period by more than fifteen percent (15%) (i.e.
11 more than 1,666), the Net Settlement Amount shall be increased by determining the workweek
12 value calculated off of 1,448 workweeks and multiplied by the additional number of
13 workweeks. For example, if the total number of workweeks is 1,800 and the workweek value is
14 \$10.00 per workweek, Defendants would have to increase the Net Settlement Amount by
15 \$8,310 ($1,800 - 1,448 = 352 \times \$10.00 = \$3,520$).

16 45. Certification of Completion. Upon completion of administration of the
17 Settlement, the Claims Administrator will provide a written declaration under oath to certify
18 such completion to the Court and counsel for all Parties. Additionally, once Defendant fully
19 funds the Gross Settlement Amount, the Claims Administrator will provide a written
20 declaration under oath to certify Defendant's full and final satisfaction of the Gross Settlement
21 Amount for Defendant's use and records.

22 46. Treatment of Individual Settlement Payments. All Individual Settlement
23 Payments will be allocated as follows: 25% of each Individual Settlement Payment will be
24 allocated for the settlement of wage claims; 5% of each Individual Settlement Payment will be
25 allocated for the settlement of penalties; and the remaining 70% will be allocated to the
26 settlement of claims for interest and non-wage statutory damages. The portion allocated to
27 wages in each Individual Settlement Payment will be reported on an IRS Form W-2 and the
28

1 portion allocated to interest and penalties will be reported on an IRS Form-1099 by the Claims
2 Administrator.

3 47. Administration of Taxes by the Claims Administrator. The Claims
4 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, Class
5 Counsel, and Defendant any W-2, 1099, or other tax forms as may be required by law for all
6 amounts paid pursuant to this Settlement Agreement. The Claims Administrator will also be
7 responsible for forwarding all payroll taxes and other legally required withholdings, and related
8 reporting, to the appropriate government authorities.

9 48. Defendant's Responsibility for Employer Taxes: For any portion of the Class
10 Members' Individual Settlement Payments that are designated as "wages" for purposes of tax
11 reporting, the employer's taxes, employer contributions of all federal, state, and local taxes
12 (including, but not limited to, FICA, FUTA, and SDI), will be paid in addition to the Gross
13 Settlement Amount, via and with the Claims Administrator's assistance.

14 49. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
15 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
16 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
17 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
18 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN
19 OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR
20 WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR
21 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX
22 ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT
23 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY
24 (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT
25 LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
26 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
27 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR
28 ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED

1 TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR
2 ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
3 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER
4 TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE
5 CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES
6 (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
7 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR
8 TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
9 CONTEMPLATED BY THIS AGREEMENT.

10 50. No Prior Assignments. The Parties and their counsel represent, covenant, and
11 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
12 to assign, transfer, or encumber to any person or entity any portion of any liability, claim,
13 demand, action, cause of action or right released and discharged in this Settlement Agreement.

14 51. Release of Claims by Class Members. Upon the date the Court enters an order
15 granting final approval of the Settlement and Defendant fully funds the Gross Settlement
16 Amount, all Class Members who do not timely submit a valid Request for Exclusion do and
17 will be deemed to have fully, finally and forever released, settled, compromised, relinquished,
18 waived, and discharged any and all of the Released Parties of and from any and all Released
19 Claims accruing during the Class Period. In addition, on the date the Court enters an order
20 granting final approval of the settlement, all Class Members who do not timely submit a valid
21 Request for Exclusion and all successors in interest will be barred from prosecuting or
22 participating in any and all Released Claims against the Released Parties.

23 52. Release by Plaintiff. In addition to the Gross Settlement Amount, Defendants
24 have agreed to pay Plaintiff an additional sum of \$35,000.00 ("Individual Settlement Amount")
25 to resolve Plaintiff's alleged individual claims, including wrongful termination claim alleged in
26 Los Angeles Case No. 21STCV42499. Upon the date the Court enters an order granting final
27 approval of the settlement and Defendant fully funds the Gross Settlement Amount and
28 Individual Settlement Amount, in addition to the claims being released by all Class Members,

1 Plaintiff will provide the following additional general release ("General Release"): Plaintiff, on
2 his own behalf and on behalf of his heirs, spouses, executors, administrators, attorneys, agents
3 and assigns, fully and finally releases the Released Parties from all claims, demands, rights,
4 liabilities and causes of action of every nature and description whatsoever, known or unknown,
5 asserted or that might have been asserted, whether in tort, contract, or for violation of any state
6 or federal statute, rule or regulation arising out of, relating to, or in connection with any act or
7 omission by or on the part of any of the Released Parties committed or omitted prior to the
8 execution of this Agreement, including but not limited to those arising under the California
9 Labor Code, Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil
10 Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act,
11 California Corporations Code, California Business and Professions Code, California Fair
12 Employment and Housing Act, California Constitution (all as amended),. This General Release
13 includes any unknown claims Plaintiff does not know or suspect to exist in their favor at the
14 time of this General Release, which, if known by them, might have affected his settlement with,
15 and release of, the Released Parties or might have affected their decision not to object to this
16 Settlement or this Release. To the extent the foregoing releases are releases to which Section
17 1542 of the California Civil Code or similar provisions of other applicable law may apply,
18 Plaintiff expressly waives any and all rights and benefits conferred upon them by the provisions
19 of Section 1542 of the California Civil Code or similar provisions of applicable law which are
20 as follows:

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

1 The significance of this release and waiver of Civil Code Section 1542 has been explained to
2 Plaintiff by his counsel. Release by Plaintiff expressly excludes any claims for workers
3 compensation against Defendant.

4 53. Neutral Reference. Defendant agrees that it will only provide a neutral reference
5 for Plaintiff should any prospective employers or anyone contact it regarding Plaintiff's
6 employment. Defendant shall only provide the dates of employment and Plaintiff's last job title
7 held with Defendant.

8 54. Nullification of Settlement Agreement. In the event that: (i) the Court does not
9 finally approve the Settlement as provided in this Settlement Agreement; or (ii) the Settlement
10 does not become final for any other reason, then this Settlement Agreement and any documents
11 generated to bring it into effect will be null and void. Any order or judgment entered by the
12 Court in furtherance of this Settlement Agreement will likewise be treated as void from the
13 beginning. In such case, the Settlement shall not be used or be admissible in any subsequent
14 proceedings, either in this Action, this Court, or any other Court or forum.

15 55. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to
16 request the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary
17 Approval Order for: (i) conditional certification of the Settlement Class for settlement purposes
18 only, (ii) preliminary approval of the proposed Settlement Agreement, and (iii) setting a date
19 for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order will
20 provide for the Notice to be sent to all Class Members as specified in this Settlement
21 Agreement. In conjunction with the Preliminary Approval motion, Plaintiff will submit this
22 Settlement Agreement, which sets forth the terms of this Settlement and will include the
23 proposed Notice.

24 56. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of
25 the deadlines to fax or postmark Request for Exclusion or submit objections to the Settlement
26 Agreement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will
27 be conducted to determine the Final Approval of the Settlement Agreement along with the
28 amounts properly payable for (i) Individual Settlement Payments; (ii) the Class Counsel Fees

1 and Costs; (iii) the Class Representative Enhancement Payment; (iv) payment to LWDA for
2 PAGA penalties; and (v) all Claims Administration Expenses. Class Counsel will be
3 responsible for drafting all documents necessary to obtain final approval. Class Counsel will
4 also be responsible for drafting the attorneys' fees and costs application to be heard at the Final
5 Approval/Settlement Fairness Hearing.

6 57. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by
7 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present a
8 proposed Judgment to the Court for its approval. Pursuant to California Rules of Court, Rule
9 3.771(b), the Claims Administrator shall post on its website a copy of the Judgment for a period
10 of thirty (30) days from the date the Court signs the Judgment. After entry of the Judgment, the
11 Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation
12 and enforcement of the terms of the Settlement Agreement, (ii) settlement administration
13 matters, and (iii) such post- Judgment matters as may be appropriate under court rules or as set
14 forth in this Settlement Agreement.

15 58. Exhibits Incorporated by Reference. The terms of this Settlement Agreement
16 include the terms set forth in any attached Exhibits, which are incorporated by this reference as
17 though fully set forth in this Settlement Agreement. Any Exhibits to this Agreement are an
18 integral part of the Settlement.

19 59. Entire Agreement. This Settlement Agreement and any attached Exhibits
20 constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous
21 written or oral agreements may be deemed binding on the Parties. The Parties expressly
22 recognize California Civil Code Section 1625 and California Code of Civil Procedure Section
23 1856(a), which provide that a written agreement is to be construed according to its terms and
24 may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such
25 extrinsic oral or written representations or terms will modify, vary or contradict the terms of
26 this Agreement.

1 60. Amendment or Modification. This Settlement Agreement may be amended or
2 modified only by a written instrument signed by counsel for all Parties or their successors-in-
3 interest.

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

14 62. Binding on Successors and Assigns. This Settlement Agreement will be binding
15 upon, and inure to the benefit of, the successors or assigns of the Parties to this Settlement
16 Agreement, as previously defined.

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

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

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

5 66. Waiver of Certain Appeals. The Parties agree to waive appeals; except,
6 however, that Plaintiff or Class Counsel may appeal any reduction in the Class Counsel Fees
7 and Costs below the amount requested from the Court, and either party may appeal any court
8 order that materially alters the Settlement Agreement's terms.

9 67. Captions. The captions and section numbers in this Agreement are inserted for
10 the reader's convenience, and in no way define, limit, construe or describe the scope or intent of
11 the provisions of this Agreement.

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

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

22 70. Mutual Preparation. The Parties have had a full opportunity to negotiate the
23 terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement
24 will not be construed more strictly against one party than another merely by virtue of the fact
25 that it may have been prepared by counsel for one of the Parties, it being recognized that,
26 because of the arms-length negotiations between the Parties, all Parties have contributed to the
27 preparation of this Agreement.

28

1 71. Representation By Counsel. The Parties acknowledge that they have been
2 represented by counsel throughout all negotiations that preceded the execution of this
3 Settlement Agreement, and that this Settlement Agreement has been executed with the consent
4 and advice of counsel.

5 72. All Terms Subject to Final Court Approval. All amounts and procedures
6 described in this Settlement Agreement will be subject to final Court approval.

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

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

15 75. No Admission of Liability. Nothing contained in this Settlement Agreement shall
16 be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the
17 part of Defendant. Each of the Parties has entered into this Settlement Agreement with the
18 intention to avoid further disputes and litigation, and the attendant inconvenience and expense,
19 and to fully and forever buy their respective peace. This Settlement Agreement shall be
20 inadmissible in evidence in any action or proceeding, by any party, except an action or
21 proceeding by one of the Parties to approve, interpret, or enforce the Settlement Agreement's
22 terms.

23 76. Communications. The Parties and their counsel agree that they will not publicize
24 or issue or post any press releases, advertising, or marketing, or initiate any contact with the
25 media or third parties about this case or the parties involved, including the fact, amount, or
26 terms of the Settlement. If counsel for either Party receives an inquiry about the Settlement
27 from the media, counsel may only respond that a settlement has been reached. Before the date
28 on which the Parties file their motion for preliminary approval of the Settlement, Plaintiff and

1 their Class Counsel will not initiate any contact with Class Members about the Settlement,
 2 except that, if contacted by a Class Member, they may respond that a settlement has been
 3 reached and that the details will be communicated in a forthcoming Court-approved notice.

4 77. Disputes. Any dispute between the Parties concerning the interpretation or
 5 implementation of this Settlement Agreement will be resolved by the Court. Prior to any such
 6 resort to the Court, counsel for the Parties will confer in good faith to resolve the dispute. If the
 7 Parties are unable to resolve the dispute themselves, the dispute will be submitted to Todd
 8 Smith, Esq., the Parties' mediator, for mediation before being submitted to the Court, unless the
 9 Parties agree otherwise.

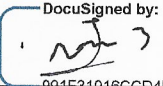
10 78. Applicable Law. All terms and conditions of this Stipulation and its exhibits will
 11 be governed by and interpreted according to the laws of the State of California, without giving
 12 effect to any conflict of law or choice of law principles.

13 READ CAREFULLY BEFORE SIGNING

14
 15 Dated: 9/2/2022

PLAINTIFF

DocuSigned by:


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VICTOR BERDUO LOPEZ

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 17
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 19 Dated: 9/14/2022

DEFENDANT


 DEMEJICO, INC.

By:

Its:

AGREED TO BY PLAINTIFF'S COUNSEL:

9/1/2022

DATED: _____, 2022

SIRMABEKIAN LAW FIRM, PC

DocuSigned by:

Sarkis Sirmabekian

817848811183461...

AGREED TO BY DEFENDANT'S COUNSEL:

DATED: September 14, 2022

LIGHTGABLER



STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On the below-indicated date, I served the following document:

on the interested parties in said action by placing:

and addressed as set forth on the attached Service List and delivered by one or more of the means set forth below:

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

Grigor Gregg Sirmabekhian
Grigor Gregg Sirmabekhian

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SERVICE LIST

Michael H. Brody, Esq. [SBN 238757] LIGHTGABLER 760 Paseo Camarillo, Suite 300 Camarillo, California 93010 Email: <i>mbrody@lightgablerlaw.com</i>	<i>Attorneys for Defendant DEMEJICO, INC.</i>
Labor and Workforce Development Agency Department of Industrial Relations LWDA Attn. PAGA Administrator 1515 Clay Street, Ste. 801 Oakland, California 94612	<i>Labor and Workforce Development Agency ("LWDA") filed/served online at: https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html</i>