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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

PATRICK CLEGG, an individual, on behalf of
himself, and on behalf of all persons similarly
situated,

Plaintiff,

v.

POULIN VENTURES, LLC, a California
Corporation; BRANDON POULIN, an
individual, and DOES 1 through 50, Inclusive;

Defendant(s).

Case No. 37-2021-00033824-CU-OE-CTL

**STIPULATION OF SETTLEMENT
AGREEMENT OF CLASS AND PAGA
ACTION CLAIMS AND RELEASES OF
CLAIMS**

Assigned for All Purposes to:
Hon. Judge Keri Katz
Dept.: C-74

Complaint Filed: August 6, 2021
Trial Date: None

This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is entered into by and between Plaintiff PATRICK CLEGG (hereinafter "Plaintiff"), an individual, on behalf of the Settlement Class, and in his representative capacity on behalf of the State of California

1 and the Aggrieved Employees, and Defendants POULIN VENTURES, LLC dba LadyBoss and
2 BRANDON POULIN (hereinafter “Defendants”):

3 **I. DEFINITIONS**

4 1. “Action” shall mean the putative class action lawsuit designated *Clegg v. Poulin*
5 *Ventures, LLC, et al*, San Diego County Superior Court, Case No.37-2021-00033824-CU-OE-CTL,
6 filed August 6, 2021.

7 2. “Aggrieved Employees” shall mean all non-exempt employees who are or previously
8 were employed by Defendants and performed work in California during the PAGA Period.

9 3. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
10 Class Action and Release of Claims.

11 4. “Class Counsel” shall mean Nicole Barvie, Esq. of Barvie Law, APC, Shani Zakay,
12 Esq. of Zakay Law Group, APLC, and Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC.

13 5. “Class Counsel Award” means the award of fees and expenses that the Court
14 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff, the Class
15 Members and the Aggrieved Employees in the Action, consisting of attorneys’ fees currently not to
16 exceed one-third of the Gross Settlement Amount currently estimated to be \$41,250.00 out of
17 \$125,000.00 plus costs of up to \$20,000.00. Attorneys’ fees will be divided between Class Counsel
18 in the following percentages (75% Barvie Law, APC, 12.5% Zakay Law Group, APLC, and 12.5%
19 to JCL Law Firm).

20 6. “Class Data” means information regarding Class Members that Defendants will in
21 good faith compile from its records and provide to the Settlement Administrator. It shall be
22 formatted as a Microsoft Excel spreadsheet and shall include: each Class Member’s full name; last
23 known address; Social Security Number; and the number of applicable workweeks each Class
24 Member worked during the Class Period.

25 7. “Class Members” or the “Class” means all non-exempt employees who are or
26 previously were employed by Defendants and performed work in California during the Class Period.

27 8. “Class Period” means the period from August 6, 2017 to June 17, 2022 or through
28 the date of preliminary approval, whichever is sooner.

1 9. “Class Representative Service Award” means the amount that the Court authorizes
2 to be paid to the Class Representative, in addition to his Individual Settlement Payment and his pro-
3 rata share of the PAGA Settlement, in recognition of his efforts and risks in assisting with the
4 prosecution of the Action.

5 10. “Class Representative” shall mean plaintiff PATRICK CLEGG.

6 11. “Court” means the Superior Court for the State of California, County of San Diego
7 currently presiding over the Action.

8 12. “Defendants” shall mean Poulin Ventures, LLC, dba LadyBoss, and Brandon Poulin.

9 13. “Effective Date” means the later of (a) the Court’s final approval of the Settlement
10 Agreement, if no objections have been filed, (b) the time of appeal has expired if an objection has
11 been filed and no appeal was filed, or (c) the final resolution of any appeal that has been filed.

12 14. “Funding Date” shall mean the date LadyBoss transfers the Gross Settlement
13 Amount into the QSF in accord with the terms of this Agreement, which shall occur sixty-five (65)
14 days after the Effective Date.

15 15. “Gross Settlement Amount” means One Hundred Twenty-Five Thousand Dollars
16 (\$125,000.00) that Defendants must pay into the QSF in connection with this Settlement, inclusive
17 of the sum of the Individual Settlement Payments, the Class Representative Service Award, the
18 Attorneys’ Fees, PAGA Payment and the Claims Administration Expenses. The Gross Settlement
19 Amount is *exclusive* of the employer’s share of payroll tax, if any, triggered by any payment under
20 this Settlement.

21 16. “Individual Settlement Payment” means the amount payable from the Net Settlement
22 Amount to each Settlement Class Member and excludes any amounts distributed to Aggrieved
23 Employees pursuant to PAGA.

24 17. “LadyBoss” shall refer to the Defendant Poulin Ventures, LLC dba LadyBoss.

25 18. “Net Settlement Amount” or “NSA” means the Gross Settlement Amount, less
26 Attorneys’ Fees and costs, Class Representative Service Award, PAGA Payment, and Claims
27 Administration Expenses.

28 19. “Notice Packet” means the Class Notice to be provided to the Class Members by the

1 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other than formatting
2 changes to facilitate printing by the Settlement Administrator).

3 20. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
4 Labor Code § 2698 *et seq.*

5 21. "PAGA Pay Periods", for purposes of calculating the distribution of the Aggrieved
6 Employee Payment, as defined herein, means the number of pay periods of employment during the
7 PAGA Period that each Aggrieved Employee worked in California.

8 22. "PAGA Payment Ratio" means the respective Pay Periods during the PAGA Period
9 for each Aggrieved Employee divided by the sum-total of the Pay Periods for all Aggrieved
10 Employees during the PAGA Period.

11 23. "PAGA Period" means the period of July 14, 2020 to June 17, 2022 or through the
12 date of preliminary approval, whichever is sooner.

13 24. "PAGA Payment" shall mean Ten Thousand Dollars (\$10,000) to be allocated from
14 the Gross Settlement Amount.

15 25. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either
16 Plaintiff or Defendants, individually.

17 26. "Payment Ratio" means the respective Workweeks for each Class Member divided
18 by the sum total Workweeks for all Class Members.

19 27. "Plaintiff" shall mean PATRICK CLEGG.

20 28. "QSF" means the Qualified Settlement Fund established, designated and maintained
21 by the Settlement Administrator to fund the Gross Settlement Amount.

22 29. "Released Class Claims" means all class claims alleged, or that could have been
23 alleged, in the operative complaint which occurred during the Class Period, including those claims
24 for alleged failure to pay overtime in violation of Labor Code §§ 512 *et seq.*, failure to pay minimum
25 wages in violation of Labor Code §§ 1194, 1197, and 1197.1, failure to provide rest breaks and meal
26 periods in violation of Labor Code §§ 226.7 and 512, failure to provide accurate itemized wage
27 statements, failure to pay wages when due in violation of Labor Code §§ 201-203, and expressly
28 excluding all other claims, including claims for vested benefits (other than vacation and/or paid time

1 off to the extent those are alleged in the operative complaint), wrongful termination, unemployment
2 insurance, disability, social security, workers' compensation, and class claims outside of the Class
3 Period.

4 30. "Released PAGA Claims" means all PAGA claims asserted by Plaintiff on behalf
5 the State of California, LWDA, and the Aggrieved Employees in the operative complaint and
6 Plaintiff's PAGA notice to the LWDA, premised upon alleged failure to pay overtime in violation
7 of Labor Code §§ 512 *et seq.*, failure to pay minimum wages in violation of Labor Code §§ 1194,
8 1197, and 1197.1, failure to provide rest breaks and meal periods in violation of Labor Code §§
9 226.7 and 512, failure to provide accurate itemized wage statements, failure to pay wages when due
10 in violation of Labor Code §§ 201-203, which occurred during the PAGA Period, and expressly
11 excluding all other claims, including claims for vested benefits (other than vacation and/or paid time
12 off to the extent those are alleged in the operative complaint and Plaintiff's PAGA notice to the
13 LWDA), wrongful termination, unemployment insurance, disability, social security, workers'
14 compensation, and PAGA claims outside of the PAGA Period.

15 31. "Released Parties" shall mean Defendants and each of its past, present, and/or future,
16 direct, and/or indirect, officers, directors, members, managers, non-exempt employees, agents,
17 representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent
18 companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint ventures.

19 32. "Response Deadline" means the date forty-five (45) days after the Settlement
20 Administrator mails Notice Packets to Class Members and the last date on which Class Members
21 may submit requests for exclusion or objections to the Settlement.

22 33. "Settlement" means the disposition of the Action pursuant to this Agreement.

23 34. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
24 Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement Administrator
25 establishes, designates and maintains, as a QSF under Internal Revenue Code section 468B and
26 Treasury Regulation section 1.468B-1, into which the amount of the Gross Settlement Amount is
27 deposited for the purpose of resolving the claims of Settlement Class Members. The Settlement
28 Administrator shall maintain the funds until distribution in an account(s) segregated from the assets

1 of Defendants and any person related to Defendants. *All accrued interest shall be paid and*
2 *distributed to the Settlement Class Members as part of their respective Individual Settlement*
3 *Payment.*

4 35. "Settlement Class Members" or "Settlement Class" means all Class Members who
5 have not submitted a timely and valid request for exclusion by the Response Deadline as provided
6 in this Agreement.

7 36. "Workweeks", for purposes of calculating the distribution of the Net Settlement
8 Amount, means the number of weeks during the Class Period that each Class Member was employed
9 by Defendants in California.

10 **II. RECITALS**

11 1. On November 2, 2021, Plaintiff filed a Notice of Violations with the Labor and
12 Workforce Development Agency (LWDA) and served the same on LadyBoss.

13 2. On August 6, 2021, Plaintiff filed the class action lawsuit. On October 6, 2021,
14 Plaintiff filed the operative First Amended Complaint for:

15 (a) Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;

16 (b) Failure to pay overtime wages in violation of California Labor Code sections 510
17 *et seq*

18 (c) Failure to pay minimum wages in violation of California Labor Code sections
19 1194, 1197 & 1197.1;

20 (d) Failure to provide required meal periods in violation of California Labor Code
21 sections 226.7 and 512 and the applicable IWC wage order;

22 (e) Failure to provide required rest periods in violation of California Labor Code
23 sections 226.7 and 512 and the applicable IWC wage order;

24 (f) Failure to provide accurate itemized wage statements in violation of California
25 Labor Code section 226;

26 (g) Failure to provide wages when due in violation of Cal. Lab. Code sections 201,
27 202 and 203;

28

1 (h) Violation of the Private Attorneys General Act [Labor Code section 2698, *et*
2 *seq.*].

3 (i) Hostile Work Environment Violation of FEHA, California Gov't Code
4 §12940(j);

5 (j) Failure To Take All Reasonable Steps To Prevent Harassment, Discrimination,
6 and Retaliation from Occurring in Violation of FEHA, Cal. Gov't Code
7 §12940(k);

8 (k) Discrimination and Harassment In Violation of FEHA; (12) Wrongful
9 Termination; and

10 (l) Intentional Infliction of Emotional Distress.

11 3. The Class Representative believes he has claims based on alleged violations of the
12 California Labor Code, and the Industrial Wage Commission Orders, and that class certification is
13 appropriate because the prerequisites for class certification can be satisfied in the Action, and this
14 action is manageable as a PAGA representative action.

15 4. Defendants deny any liability or wrongdoing of any kind associated with the claims
16 alleged in the Action, disputes any wages, damages and penalties claimed by the Class
17 Representative are owed, and further contends that, for any purpose other than settlement, the Action
18 is not appropriate for class or representative action treatment. Defendants contend, among other
19 things, that at all times they complied with the California Labor Code and the Industrial Wage
20 Commission Orders and otherwise did not engage in any unlawful conduct towards Plaintiff, the
21 Class Members, or Aggrieved Employees.

22 5. The Class Representative is represented by Class Counsel. Class Counsel conducted
23 an investigation into the facts relevant to the Action, including conducting an independent
24 investigation as to the allegations, reviewing documents and information exchanged through
25 informal discovery, and reviewing documents and information provided by Defendant pursuant to
26 informal requests for information to prepare for mediation. Defendant produced for the purpose of
27 settlement negotiations certain employment data concerning the Settlement Class, which Class
28 Counsel reviewed and analyzed with the assistance of an expert. Based on their own independent

1 investigation and evaluation, Class Counsel are of the opinion that the Settlement with Defendant is
2 fair, reasonable and adequate, and is in the best interest of the Settlement Class in light of all known
3 facts and circumstances, including the risks of significant delay, defenses asserted by Defendant,
4 uncertainties regarding class certification, and numerous potential appellate issues. Although they
5 deny any liability, Defendant is agreeing to this Settlement solely to avoid the inconveniences and
6 cost of further litigation. The Parties and their counsel have agreed to settle the claims on the terms
7 set forth in this Agreement.

8 6. On April 18, 2022, the Parties participated in mediation presided over by Steven
9 Serratore, Esq., an experienced mediator of wage and hour class and PAGA actions. The mediation
10 concluded with a settlement, after both sides agreed to a Mediator's proposal, which was
11 subsequently memorialized in a Memorandum of Understanding ("MOU").

12 7. This Agreement replaces and supersedes the MOU and any other agreements,
13 understandings, or representations between the Parties, other than the individual settlement
14 agreement the Parties executed in conjunction with this Agreement. This Agreement represents a
15 compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or
16 will be construed as an admission by Defendants that the claims in the Action of Plaintiff or the
17 Class Members have merit or that Defendants bear any liability to Plaintiff or the Class on those
18 claims or any other claims, or as an admission by Plaintiff that Defendants' defenses in the Action
19 have merit.

20 8. The Parties believe that the Settlement is fair, reasonable and adequate. The
21 Settlement was arrived at through arm's-length negotiations, taking into account all relevant factors.
22 The Parties recognize the uncertainty, risk, expense and delay attendant to continuing the Action
23 through trial and any appeal. Accordingly, the Parties desire to fully, finally, and forever settle,
24 compromise and discharge all disputes and claims arising from or relating to the Action.

25 9. The Parties agree to certification of the Class for purposes of this Settlement only. If
26 for any reason the settlement does not become effective, Defendants reserve the right to contest
27 certification of any class for any reason and reserves all available defenses to the claims in the
28 Action.

1 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

2 **III. TERMS OF AGREEMENT**

3 1. Settlement Consideration and Settlement Payments by Defendant.

4 (a) Settlement Consideration. In full and complete settlement of the Action, and
5 in exchange for the releases set forth below, Defendants will pay the Gross Settlement Amount,
6 which includes the Class Members' Individual Settlement Payment, the Class Representative
7 Service Award, the Attorneys' Fees, PAGA Payment, and the Claims Administration Expenses, as
8 specified in this Agreement, equal to One Hundred Twenty-Five Thousand Dollars (\$125,000.00).
9 The Parties agree that this is a non-reversionary Settlement and that no portion of the Gross
10 Settlement Amount shall revert to Defendants. Other than the Defendants' share of employer
11 payroll taxes, Defendants shall not be required to pay more than the Gross Settlement Amount,
12 except as expressly provided for herein below.

13 (b) Class Size. At the time of mediation, Defendants estimated that the
14 Settlement Class was comprised of approximately 201 individuals who collectively worked
15 approximately 2,700 workweeks ("Projected Workweeks") from August 6, 2017 to April 18, 2022
16 ("Certified Pay Period Amount"). In regard hereto, Defendants will provide a declaration under
17 penalty of perjury before the deadline for filing the motion for preliminary approval of the
18 settlement, confirming the number of applicable Class Members and Certified Pay Period Amount
19 from August 6, 2017 to April 18, 2022. If the workweeks in the Certified Pay Period increases by
20 more than 10% of the estimated workweeks stated herein, the Settlement Amount will increase by
21 a proportionate percentage for all additional workweeks in the Certified Pay Period above the 10
22 percent allowance.

23 (c) Settlement Payment. Defendant shall pay, via wire transfer or other secured
24 method of transmission of the Gross Settlement Amount, the Gross Settlement Amount to the
25 Settlement Administrator on the Funding Date.

26 (d) Defendants' Share of Payroll Taxes. Defendants' share of employer-side
27 payroll taxes, if any, is in addition to the Gross Settlement Amount and shall be paid within thirty
28

1 (30) days of Defendants' receipt of email communication from the settlement administrator's setting
2 forth the calculation of said taxes.

3 2. Release by Settlement Class Members. As of the Funding Date, in exchange for the
4 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members release the
5 Released Parties from the Released Class Claims for the Class Period.

6 3. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
7 consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of California release
8 the Released Parties from the PAGA Released Claims for the PAGA Period. As a result of this
9 release, the Aggrieved Employees shall be precluded from bringing claims against the Released
10 Parties for the PAGA Released Claims.

11 4. Conditions Precedent: This Settlement will become final and effective only upon the
12 occurrence of all of the following events:

13 (a) The Court enters an order granting preliminary approval of the Settlement;

14 (b) The Court enters an order granting final approval of the Settlement and a
15 Final Judgment;

16 (c) If an objector appears at the final approval hearing, the time for appeal of the
17 Final Judgment and Order Granting Final Approval of Class Action Settlement expires; or, if an
18 appeal is timely filed, there is a final resolution of any appeal from the Judgment and Order Granting
19 Final Approval of Class Action Settlement; and

20 (d) LadyBoss fully funds the Gross Settlement Amount.

21 5. Nullification of Settlement Agreement. If this Settlement Agreement is not
22 preliminarily or finally approved by the Court, fails to become effective, or is reversed, withdrawn
23 or modified by the Court, or in any way prevents or prohibits Defendants from obtaining a complete
24 resolution of the Released Claims, or if LadyBoss fails to fully fund the Gross Settlement Amount:

25 (a) This Settlement Agreement shall be void *ab initio* and of no force or effect,
26 and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or
27 with respect to any issue, substantive or procedural;

28

1 (b) The conditional class certification (obtained for any purpose) shall be void
2 *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or
3 arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and

4 (c) None of the Parties to this Settlement will be deemed to have waived any
5 claims, objections, defenses or arguments in the Action, including with respect to the issue of class
6 certification.

7 (d) If Lady Boss fails to fully fund the Gross Settlement Amount as stated herein,
8 then Lady Boss shall bear the sole responsibility for any cost to issue or reissue any curative notice
9 to the Settlement Class Members and all Settlement Administration Costs incurred to the date of
10 nullification. Otherwise, any costs incurred to issue or reissue curative notice to the Settlement
11 Class Members and all Settlement Administration Costs incurred to the date of nullification shall be
12 born 50% by Plaintiff and 50% by Defendants.

13 6. Certification of the Settlement Class. The Parties stipulate to conditional class
14 certification of the Class for the Class Period for purposes of settlement only. In the event that this
15 Settlement is not approved by the Court, fails to become effective, or is reversed, withdrawn or
16 modified by the Court, or in any way prevents or prohibits Defendants from obtaining a complete
17 resolution of the Released Claims, the conditional class certification (obtained for any purpose) shall
18 be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative
19 or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural.

20 7. Tax Liability. The Parties make no representations as to the tax treatment or legal
21 effect of the payments called for, and Class Members and/or Aggrieved Employees are not relying
22 on any statement or representation by the Parties in this regard. Class Members and/or Aggrieved
23 Employees understand and agree that they will be responsible for the payment of any taxes and
24 penalties assessed on the Individual Settlement Payments and/or Aggrieved Employees' individual
25 shares of the PAGA Settlement described and will be solely responsible for any penalties or other
26 obligations resulting from their personal tax reporting of Individual Settlement Payments and/or
27 Aggrieved Employees' individual shares of the PAGA Settlement.

1 8. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
2 the “acknowledging party” and each Party to this Agreement other than the acknowledging party,
3 an “other party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written
4 communication or disclosure between or among the Parties or their attorneys and other advisers, is
5 or was intended to be, nor shall any such communication or disclosure constitute or be construed or
6 be relied upon as, tax advice within the meaning of United States Treasury Department circular 230
7 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her
8 or its own, independent legal and tax counsel for advice (including tax advice) in connection with
9 this Agreement, (b) has not entered into this Agreement based upon the recommendation of any
10 other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any
11 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty
12 that may be imposed on the acknowledging party, and (3) no attorney or adviser to any other Party
13 has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax
14 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
15 acknowledging party of the tax treatment or tax structure of any transaction, including any
16 transaction contemplated by this Agreement.

17 9. Preliminary Approval Motion. Class Counsel shall draft and file the motion for
18 preliminary approval within sixty (60) days after the Parties’ execution of this Agreement, or within
19 a date mutually agreed upon by the Parties in writing, or within the statutory timeframe as
20 determined by the Court’s setting of the preliminary approval hearing. Plaintiff will provide
21 Defendants with a draft of the Motion at least seven business days prior to the filing of the Motion
22 to give Defendants an opportunity to propose changes or additions to the Motion.

23 10. Settlement Administrator. The Settlement Administrator shall be responsible for:
24 establishing and administering the QSF; calculating, processing and mailing payments to the Class
25 Representative, Class Counsel, LWDA and Class Members; printing and mailing the Notice Packets
26 to the Class Members as directed by the Court; receiving and reporting the objections and requests
27 for exclusion; calculating, deducting and remitting all legally required taxes from Individual
28 Settlement Payments and distributing tax forms for the Wage Portion and Non-Wage Portion of the

1 Individual Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
2 Settlement; processing and mailing tax payments to the appropriate state and federal taxing
3 authorities; providing declaration(s) as necessary in support of preliminary and/or final approval of
4 this Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement
5 Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of
6 the performance of all Settlement Administrator responsibilities by among other things, sending a
7 weekly status report to the Parties' counsel stating the date of the mailing, the of number of Elections
8 Not to Participate in Settlement it receives (including the numbers of valid and deficient), and
9 number of objections received.

10 11. Notice Procedure.

11 (a) Class Data. No later than ten (10) business days after the Preliminary
12 Approval Date, Defendants shall provide the Settlement Administrator with the Class Data for
13 purposes of preparing and mailing Notice Packets to the Class Members.

14 (b) Notice Packets.

15 (a) The Notice Packet shall contain the Notice of Class Action Settlement
16 in a form substantially similar to the form attached as Exhibit A. The Notice of Class Action
17 Settlement shall inform Class Members and Aggrieved Employees that they need not do anything
18 in order to receive an Individual Settlement Payment and/or Aggrieved Employees' individual
19 shares of the PAGA Settlement and to keep the Settlement Administrator apprised of their current
20 mailing address, to which the Individual Settlement Payments and/or Aggrieved Employees'
21 individual shares of the PAGA Settlement will be mailed following the Funding Date. The Notice
22 of Class Action Settlement shall set forth the release to be given by all members of the Class who
23 do not request to be excluded from the Settlement Class and/or Aggrieved Employees' in exchange
24 for an Individual Settlement Payment and/or Aggrieved Employees' individual shares of the PAGA
25 Settlement, the number of Workweeks worked by each Class Member during the Class Period and/or
26 PAGA Period, if any, and the estimated amount of their Individual Settlement Payment if they do
27 not request to be excluded from the Settlement and each Aggrieved Employee's share of the PAGA
28 Settlement, if any. The Settlement Administrator shall confirm the Class Data for the Class

1 Members' Workweeks and PAGA Pay Periods. The Notice will also advise the Aggrieved
2 Employees that they will release the Released PAGA Claims and will receive their share of the
3 PAGA Settlement regardless of whether they request to be excluded from the Settlement.

4 (b) The Notice Packet's mailing envelope shall include the following language:
5 "IMPORTANT LEGAL DOCUMENT- YOU MAY BE ENTITLED TO PARTICIPATE IN A
6 CLASS ACTION SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR ADDRESS IS
7 REQUIRED AS EXPLAINED IN THE ENCLOSED NOTICE."

8 (c) Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data,
9 the Settlement Administrator will perform a search based on the National Change of Address
10 Database to update and correct any known or identifiable address changes. No later than fourteen
11 (14) calendar days after receiving the Class Data from Defendant, the Settlement Administrator shall
12 mail and email copies of the Notice Packet to all Class Members via regular First-Class U.S. Mail
13 and electronic mail. The Settlement Administrator shall exercise its best judgment to determine the
14 current mailing address for each Class Member. The address identified by the Settlement
15 Administrator as the current mailing address shall be presumed to be the best mailing address for
16 each Class Member.

17 (d) Undeliverable Notices. Any Notice Packets returned to the Settlement
18 Administrator as non-delivered on or before the Response Deadline shall be re-mailed to any
19 forwarding address provided. If no forwarding address is provided, the Settlement Administrator
20 shall promptly attempt to determine a correct address by lawful use of skip-tracing, or other search
21 using the name, address and/or Social Security number of the Class Member involved, and shall
22 then perform a re-mailing, if another mailing address is identified by the Settlement Administrator.
23 In addition, if any Notice Packets, which are addressed to Class Members who are currently
24 employed by Defendants, are returned to the Settlement Administrator as non-delivered and no
25 forwarding address is provided, the Settlement Administrator shall notify Defendants. Defendants
26 will request that the currently employed Class Member provide a corrected address, and transmit to
27 the Administrator any corrected address provided by the Class Member. Class Members who
28

received a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.

(e) Disputes Regarding Individual Settlement Payments. Class Members will have the opportunity, should they disagree with Defendants' records regarding the Workweeks they worked for Defendants, to provide documentation and/or an explanation to show contrary workweek information. If there is a dispute, the Settlement Administrator will consult with Defendants to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Class Member and the Parties, except as provided in Paragraph 6.

(f) Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Before any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

(g) Exclusions. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to exclude themselves from the Settlement must submit a written request for exclusion by the Response Deadline. The written request for exclusion must state that the Class Member wishes to exclude himself or herself from the Settlement and (1) must contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (2) must be signed by the Class Member; (3) must be postmarked or fax stamped by the Response Deadline and returned to the Settlement Administrator at the specified address or fax telephone number; and (4) contain a typewritten or handwritten notice stating in substance: "I wish to opt out of the settlement of the class action lawsuit entitled *Clegg v. Poulin Ventures, LLC, et al*, San Diego County Superior Court, Case No. 37-2021-00033824-CU-OE-CTL. I understand that by requesting to be excluded from the settlement, I will receive no money from the Settlement described in this Notice." The request for exclusion will not be valid if it is not timely

submitted, if it is not signed by the Class Member, or if it does not contain the name and address and last four digits of the Social Security number of the Class Member. The date of the postmark on the mailing envelope or fax stamp on the request for exclusion shall be the exclusive means used to determine whether the request for exclusion was timely submitted. Any Class Member who requests to be excluded from the Settlement Class will not be entitled to an Individual Settlement Payment and will not be otherwise bound by the terms of the Settlement or have any right to object, appeal or comment thereon. However, any Class Member that submits a timely request for exclusion that is also an Aggrieved Employee will still receive his/her pro rata share of the PAGA Settlement, as specified below, and in consideration, will be bound by the Release by the Aggrieved Employees as set forth herein. Settlement Class Members who fail to submit a valid and timely written request for exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any final judgment entered in this Action if the Settlement is approved by the Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Class Members who have timely submitted written requests for exclusion. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class to submit requests for exclusion from the Settlement.

(h) Objections. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to object to the Settlement may submit to the Settlement Administrator a written statement of objection (“Notice of Objection”) by the Response Deadline. The postmark date of mailing shall be deemed the exclusive means for determining that a Notice of Objection was served timely. The Notice of Objection, if in writing, must be signed by the Settlement Class Member and state: (1) the case name and number; (2) the name of the Settlement Class Member; (3) the address of the Settlement Class Member; (4) the last four digits of the Settlement Class Member’s Social Security number; (4) the basis for the objection; and (5) if the Settlement Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Class Members who fail to make objections in writing in the manner specified above may still make their objections orally at the Final Approval/Settlement Fairness Hearing with the Court’s

1 permission. Settlement Class Members will have a right to appear at the Final Approval/Settlement
2 Fairness Hearing to have their objections heard by the Court regardless of whether they submitted
3 a written objection. At no time shall any of the Parties or their counsel seek to solicit or otherwise
4 encourage Class Members to file or serve written objections to the Settlement or appeal from the
5 Order and Final Judgment. Class Members who submit a written request for exclusion may not
6 object to the Settlement. Class Members may not object to the PAGA Settlement.

7 (i) Defendant's Right to Withdraw. If Class members representing more than
8 10% of the total Class Members in the Class Period submit valid exclusion forms of any kind,
9 Defendants may exercise the option to withdraw from the Settlement. In the event that Defendants
10 elect to exercise this option, then Defendants will not be obligated to pay the Gross Settlement
11 Amount, nor any portion thereof, and this Agreement, as well as the underlying MOU will be
12 rendered void and of no effect, and the Class certification for purposes of settlement will be rendered
13 void. In the event that Defendants elect to exercise this option, they must notify Class Counsel in
14 writing within seven (7) days of receiving the final opt-out list from the Administrator. If
15 Defendants exercise the option to withdraw as set forth herein, then the Parties will resume the status
16 quo as of April 18, 2022.

17 12. Funding and Allocation of the Gross Settlement Amount. Defendants are required
18 to pay the Gross Settlement Amount on or before the Funding Date, plus any employer's share of
19 payroll taxes as mandated by law within the time specified herein.

20 (a) Calculation of Individual Settlement Payments. Individual Settlement
21 Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula
22 set forth herein. Using the Class Data, the Settlement Administrator shall add up the total number
23 of Workweeks for all Class Members. The respective Workweeks for each Class Member will be
24 divided by the total Workweeks for all Class Members, resulting in the Payment Ratio for each
25 Class Member. Each Class Member's Payment Ratio will then be multiplied by the Net Settlement
26 Amount to calculate each Class Member's estimated Individual Settlement Payments. Each
27 Individual Settlement Payment will be reduced by any legally mandated employee tax withholdings
28 (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class Members who submit

1 valid and timely requests for exclusion will be redistributed to Settlement Class Members who do
2 not submit valid and timely requests for exclusion on a pro rata basis based on their respective
3 Payment Ratios.

4 (b) Calculation of Individual Payments to the Aggrieved Employees. Using the
5 Class Data, the Settlement Administrator shall add up the total number of pay periods for all
6 Aggrieved Employees during the PAGA Period. The respective pay periods for each Aggrieved
7 Employee will be divided by the total pay periods for all Aggrieved Employees, resulting in the
8 “PAGA Payment Ratio” for each Aggrieved Employee. Each Aggrieved Employee’s PAGA
9 Payment Ratio will then be multiplied by the Aggrieved Employee Payment to calculate each
10 Aggrieved Employee’s estimated share of the PAGA Settlement.

11 (c) Allocation of Individual Settlement Payments. For tax purposes, Individual
12 Settlement Payments shall be allocated as follows: 10% wages (“Wage Portion”); 90% as penalties
13 and interest (“Non-Wage Portion”). The Wage Portion of the Individual Settlement Payments shall
14 be reported on IRS Form W-2 and the Non-Wage Portion of the Individual Payments shall be
15 reported on IRS Form 1099.

16 (d) Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
17 Employee Settlement Payments shall be allocated and treated as 100% penalties and shall be
18 reported on IRS Form 1099.

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

1 (f) All monies received by Settlement Class Members under the Settlement that are
2 attributable to wages shall constitute income to such Settlement Class Members solely in the year in
3 which such monies actually are received by the Settlement Class Members. It is the intent of the Parties
4 that Individual Settlement Payments and individual shares of the PAGA Settlement provided for in this
5 Settlement agreement are the sole payments to be made by Defendant to Settlement Class Members
6 and/or Aggrieved Employees in connection with this Settlement Agreement, with the exception of
7 Plaintiff, and that the Settlement Class Members and/or Aggrieved Employees are not entitled to any
8 new or additional compensation or benefits as a result of having received the Individual Settlement
9 Payments and/or their shares of the PAGA Settlement.

10 (g) Mailing. Individual Settlement Payments and Aggrieved Employee
11 Payments shall be mailed by regular First-Class U.S. Mail to Settlement Class Members' and/or
12 Aggrieved Employees last known mailing address no later than fifteen (15) calendar days after the
13 Funding Date.

14 (h) Expiration. Any checks issued to Settlement Class Members and Aggrieved
15 Employees shall remain valid and negotiable for one hundred and eighty (180) days from the date
16 of their issuance. If a Settlement Class Member and/or Aggrieved Employee does not cash his or
17 her settlement check within 90 days, the Settlement Administrator will send a letter to such persons,
18 advising that the check will expire after the 180th day, and invite that Settlement Class Member
19 and/or Aggrieved Employee to request reissuance in the event the check was destroyed, lost or
20 misplaced. In the event an Individual Settlement Payment and/or Aggrieved Employee's individual
21 share of the PAGA Settlement check has not been cashed within one hundred and eighty (180) days,
22 all funds represented by such uncashed checks, plus any interest accrued thereon, shall be distributed
23 to the State's Controller's Unclaimed Fund.

24 (i) Service Award. In addition to the Individual Settlement Payment and his
25 individual share of the PAGA Settlement to be paid to Plaintiff, Plaintiff will apply to the Court for
26 an award of not more than \$10,000, as the Service Award. Defendants does not presently intend to
27 oppose a Service Award of not more than \$10,000 for Plaintiff. The Settlement Administrator shall
28 pay the Service Award, either in the amount stated herein if approved by the Court or some other

1 amount as approved by the Court, to Plaintiff from the Gross Settlement Amount no later than fifteen
2 (15) calendar days after the Funding Date. Any portion of the requested Service Award that is not
3 awarded to the Class Representatives shall be part of the Net Settlement Amount and shall be
4 distributed to Settlement Class Members as provided in this Agreement. The Settlement
5 Administrator shall issue an IRS Form 1099 — MISC to Plaintiff for his Service Award. Plaintiff
6 shall be solely and legally responsible to pay any and all applicable taxes on his Service Award and
7 shall hold harmless the Released Parties from any claim or liability for taxes, penalties, or interest
8 arising as a result of the Service Award. The Service Award shall be in addition to Plaintiff's
9 Individual Settlement Payment as a Settlement Class Member. Approval of this Settlement shall
10 not be conditioned on Court approval of the requested amount of the Service Award. If the Court
11 reduces or does not approve the requested Service Award, Plaintiff shall not have the right to revoke
12 the Settlement, and it will remain binding.

13 (j) Plaintiff's Individual Settlement. Plaintiff is entering into a separate,
14 confidential, individual settlement agreement, which shall provide for an Individual Settlement
15 Payment, and which shall provide for a broad release, including a waiver of Civil Code 1542. This
16 release, waiver and discharge of all claims, include, but will not be limited to, any and all claims
17 arising out of the Action, and specifically excludes a waiver of any claims Plaintiff may have as to
18 Plaintiff's status and claims as a class or PAGA representative and under workers compensation
19 law. The Individual Settlement Agreement shall be confidential, but may be submitted to the Court
20 for an in-camera review for purposes of approval of this Settlement.

21 (k) Attorneys' Fees. Defendants understands a motion by Class Counsel for
22 attorneys' fees not to exceed one-third of the Gross Settlement Amount currently estimated to be
23 \$41,250.00 plus costs and expenses supported by declaration not to exceed Twenty Thousand
24 Dollars (\$20,000.00), from the Gross Settlement Amount will be filed. Any portion of the requested
25 Attorneys' Fees that is not awarded to Class Counsel shall be part of the Net Settlement Amount
26 and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement
27 Administrator shall allocate and pay the Attorneys' Fees to Class Counsel from the Gross Settlement
28 Amount no later than fifteen (15) calendar days after the Funding Date. Class Counsel shall be

1 solely and legally responsible to pay all applicable taxes on the payment made pursuant to this
2 paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel
3 for the payments made pursuant to this paragraph. If the Court reduces or does not approve the
4 requested Attorneys' Fees, Plaintiff and Class Counsel shall not have the right to revoke the
5 Settlement, or to appeal such order, and the Settlement will remain binding.

6 (l) PAGA Payment. Ten Thousand Dollars (\$10,000) shall be allocated from
7 the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys
8 General Act of 2004 ("PAGA Settlement"). The Settlement Administrator shall pay seventy-five
9 percent (75%) of the PAGA Settlement (\$7,500.00) to the California Labor and Workforce
10 Development Agency no later than fifteen (15) calendar days after the Funding Date (hereinafter
11 "LWDA Payment"). Twenty-five percent (25%) of the PAGA Settlement (\$2,500.00) will be
12 distributed to the Aggrieved Employees as described in this Agreement (hereinafter "Aggrieved
13 Employee Payment"). For purposes of distributing the PAGA Settlement to the Aggrieved
14 Employees, each Aggrieved Employee shall receive their pro-rata share of the Aggrieved Employee
15 Payment using the PAGA Payment Ratio as defined above.

16 (m) Claims Administration Expenses. The Settlement Administrator shall be paid
17 for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate
18 of the Settlement Administration Costs is \$8,000.00. The Settlement Administrator shall be paid
19 the Settlement Administration Costs no later than fifteen (15) calendar days after the Funding Date.

20 13. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with
21 the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight
22 (28) days following the expiration of the Response Deadline, which motion shall request final
23 approval of the Settlement and a determination of the amounts payable for the Service Award, the
24 Attorneys' Fees, the PAGA Payment, and the Claims Administration Expenses.

25 (a) Declaration by Settlement Administrator. No later than seven (7) days after
26 the Response Deadline, the Settlement Administrator shall submit a declaration in support of
27 Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed
28 and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely

1 requests for exclusion, the number of objections received, the amount of the average Individual
2 Settlement Payment and highest Individual Settlement Payment, the Claims Administration
3 Expenses, and any other information as the Parties mutually agree or the Court orders the Settlement
4 Administrator to provide.

5 (b) Final Approval Order and Judgment. Class Counsel shall present an Order
6 Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment
7 thereon, at the time Class Counsel files the Motion for Final Approval.

8 14. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
9 an opportunity for Counsel for Defendants to review the Motions for Preliminary and Final
10 Approval, including the Order Granting Final Approval of Class Action Settlement, and Judgment
11 before filing with the Court. The Parties and their counsel will cooperate with each other and use
12 their best efforts to affect the Court's approval of the Motions for Preliminary and Final Approval
13 of the Settlement, and entry of Judgment.

14 15. Cooperation. The Parties and their counsel will cooperate with each other and use
15 their best efforts to implement the Settlement.

16 16. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
17 except such proceedings necessary to implement and complete the Settlement, pending the Final
18 Approval/Settlement Fairness Hearing to be conducted by the Court.

19 17. Amendment or Modification. This Agreement may be amended or modified only by
20 a written instrument signed by counsel for all Parties.

21 18. Entire Agreement. Except with respect to the separate, confidential, settlement
22 agreement between Plaintiff and Defendants settling his individual claims, this Agreement and any
23 attached Exhibit constitute the entire Agreement among these Parties, and no oral or written
24 representations, warranties or inducements have been made to any Party concerning this Agreement
25 or its Exhibit other than the representations, warranties and covenants contained and memorialized
26 in this Agreement and its Exhibit.

27 19. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant
28 and represent they are expressly authorized by the Parties whom they represent to negotiate this

1 Agreement and to take all appropriate Action required or permitted to be taken by such Parties
2 pursuant to this Agreement to effectuate its terms, and to execute any other documents required to
3 effectuate the terms of this Agreement. The persons signing this Agreement on behalf of Defendants
4 represents and warrants that he/she is authorized to sign this Agreement on behalf of Defendants.
5 Plaintiff represents and warrants that he is authorized to sign this Agreement and that he has not
6 assigned any claim, or part of a claim, covered by this Settlement to a third party.

7 20. No Public Comment: The Parties and their counsel agree that they will not issue any
8 press releases, initiate any contact with the press, respond to any press inquiry, or have any
9 communication with the press about the fact, amount or terms of the Settlement Agreement. Class
10 Counsel further agrees not to use the Settlement Agreement or any of its terms for any marketing or
11 promotional purposes. Nothing herein will restrict Class Counsel from including publicly available
12 information regarding this settlement in future judicial submissions regarding Class Counsel's
13 qualifications and experience. Further, Class Counsel will not include, reference or use the
14 Settlement Agreement for any marketing or promotional purposes, either before or after the Motion
15 for Preliminary Approval is filed.

16 21. Binding on Successors and Assigns. This Agreement shall be binding upon, and
17 inure to the benefit of, the successors or assigns of the Parties, as previously defined.

18 22. California Law Governs. All terms of this Agreement and the Exhibit and any
19 disputes shall be governed by and interpreted according to the laws of the State of California.

20 23. Counterparts. This Agreement may be executed in one or more counterparts. All
21 executed counterparts and each of them shall be deemed to be one and the same instrument provided
22 that counsel for the Parties to this Agreement shall exchange among themselves copies or originals
23 of the signed counterparts.

24 24. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this
25 Settlement is a fair, adequate and reasonable settlement of this Action and have arrived at this
26 Settlement after extensive arms-length negotiations, taking into account all relevant factors, present
27 and potential.

1 25. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction
2 with respect to the interpretation, implementation and enforcement of the terms of this Agreement
3 and all orders and judgments entered in connection therewith, and the Parties and their counsel
4 submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the
5 settlement and all orders and judgments entered in connection with this Agreement.

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

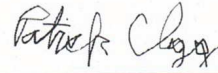
10 27. No Unalleged Claims. Plaintiff and Class Counsel represent that, except for
11 Plaintiff's individual claims, which are covered in his confidential individual settlement agreement,
12 they do not currently intend to pursue any claims against the Released Parties, including, but not
13 limited to, any and all claims relating to or arising from Plaintiff's employment with Defendant,
14 regardless of whether Class Counsel is currently aware of any facts or legal theories upon which
15 any claims or causes of action could be brought against Released Parties, including those facts or
16 legal theories alleged in the operative complaint in this Action. The Parties further acknowledge,
17 understand and agree that this representation is essential to the Agreement and that this Agreement
18 would not have been entered into were it not for this representation.

19 28. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
20 class certification for purposes of this settlement only.

21 29. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
22 Released Claims have merit and give rise to liability on the part of Defendants. Defendants claim
23 that the Released Claims have no merit and do not give rise to liability. This Agreement is a
24 compromise of disputed claims. Nothing contained in this Agreement and no documents referred
25 to and no action taken to carry out this Agreement may be construed or used as an admission by or
26 against the Defendants or Plaintiff or Class Counsel as to the merits or lack thereof of the claims
27 asserted. Other than as may be specifically set forth herein, each Party shall be responsible for and
28 shall bear its/his own attorney's fees and costs.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: 07 / 13 / 2022



PATRICK CLEGG

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

July 21, 2022 | 12:32 AM PDT

DATED:

DocuSigned by:



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POULIN VENTURES, LLC

Brandon Poulin

Printed Name

CEO

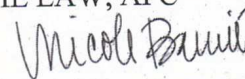
Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: Jul 13, 2022

BARVIE LAW, APC

By:



Nicole Barvie

Attorneys for Plaintiff and the Settlement Class Members

DATED: July 13, 2022

ZAKAY LAW GROUP, APLC

By:



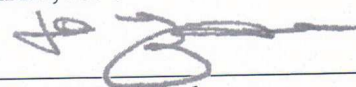
Shani O. Zakay

Attorneys for Plaintiff and the Settlement Class Members

DATED: July 13, 2022

JCL LAW FIRM, APC

By:



Jean-Claude Lapuyade

Attorneys for Plaintiff and the Settlement Class
Members

DATED: July 21, 2022

GORDON REES SCULLY MANSUKHANI

By: 

Talia Delanoy

Attorneys for Defendants