

SETTLEMENT AGREEMENT

This Settlement Agreement ("Settlement Agreement") is made and entered into between Lee Ankoma ("Plaintiff") acting individually and in his capacity as private attorney general and Defendant American Builders and Contractors Supply Co. Inc. ("Defendant").

I. DEFINITIONS

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

1. "Action" means the action filed in San Diego County Superior Court entitled *Lee Ankoma v. American Builders and Contractors Supply Co. Inc.*, Case No. 37-2021-00044057-CU-OE-CTL.
2. "Court" means San Diego County Superior Court.
3. "Date of Settlement Approval" means the date the Court issues an order approving the settlement terms ("PAGA Approval Order") and enters final judgment in the Action.
4. "Effective Date" means the date on which the Court's PAGA Approval Order becomes final. For purposes of this paragraph, the Court's PAGA Approval Order "becomes final" upon the last to occur of the following: (a) the date of final affirmance on appeal of the Judgment; (b) the date of final dismissal of any appeal from the Judgment or the final dismissal of any proceeding to review the Judgment; or (c) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from the Judgment.
5. "Judgment" means a judgment entered by the Court following entry of the Final Approval Order.
6. "Individual PAGA Payment" means the proportional pro rata share to be paid to each of the PAGA Settlement Employees from the 25% of the PAGA Payment attributable to civil penalties under Labor Code section 2699, with such individual shares to be based on the number of pay periods during which a PAGA Settlement Employee worked during the PAGA Period. The PAGA Settlement Employees will be issued an IRS Form 1099 by the settlement Administrator for their proportional pro rata share.
7. "LWDA" means the California Labor Workforce Development Agency.
8. "Gross Settlement Amount" means the total of One Hundred and Seven Thousand Five Hundred Dollars (\$107,500.00).
9. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code sections 2698 *et seq.*

///

///

10. "PAGA Payment" means the Gross Settlement Amount less Attorney's Fees (up to \$35,833.33 or one-third of the Gross Settlement subject to Court approval) and Costs (up to \$2,500 subject to Court approval) and the Administration Costs (up to \$3,000 subject to Court approval). The entirety of the PAGA Payment shall be allocated to civil penalties under Labor Code section 2699, with 75% of the PAGA Payment going to the LWDA and 25% going to the Individual PAGA Payments.

11. "PAGA Period" means the time period from August 9, 2020 through the Date of Settlement Approval.

12. "PAGA Settlement Employees" means all current and former non-exempt employees who were employed by Defendant in California during the PAGA Period. Defendant anticipates the number of PAGA Settlement Employees to be approximately 300.

13. "Parties" means Plaintiff Lee Ankoma and Defendant American Builders and Contractors Supply Co. Inc.

14. "Plaintiff's Counsel" means Alex Asil Mashiri at the law firm of Mashiri Law Firm, APC and Tamim Jami of the Jami Law Firm, P.C.

15. "Released Parties" means Defendant American Builders and Contractors Supply Co. Inc., including past, present, and future divisions, affiliates, parents, subsidiaries, predecessors, successors, heirs, assigns, shareholders, members, owners, officers, directors, managers, employees, agents, principals, trustees, attorneys, accountants, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, insurers and privies.

16. "Settlement Administrator" means Phoenix Class Action Administration Solutions ("Phoenix").

II. RECITALS

1. Plaintiff was employed by Defendant as a non-exempt employee in California during the PAGA Period.

2. On August 9, 2021, Plaintiff's Counsel, on behalf of Plaintiff, sent a letter to the California Labor and Workforce Development Agency ("LWDA") notifying it that Plaintiff intended to pursue claims against Defendant under PAGA for violation of California Labor Code Sections 201-204, 210, 226, 226(a), 226.3, 226.7, 227.3, 246, 510, 512, 558, 1194, 1198, 2698 and 2699 et seq.

3. On October 15, 2021, Plaintiff filed his representative action Complaint in San Diego County Superior Court, which asserted claims for penalties under PAGA against Defendant.

4. On April 14, 2023, after a good faith settlement negotiation between counsel which took several months, the Parties agreed to fully and finally resolve the Action.

///

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission and Denial of Liability.** Nothing in this Settlement Agreement shall be construed to be an admission by Plaintiff that his representative claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, the PAGA Settlement Employees, or any other person. Defendant specifically disclaims and denies any such liability or wrongdoing alleged in the Action. Further, it is Defendant's position that if this Action were to be litigated, a representative action would be inappropriate. The Parties have entered into this Settlement Agreement solely to avoid further disputes and litigation with the attendant inconvenience, nuisance, expenses, and risks. This Settlement Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability or wrongdoing by Defendant. The Parties agree that an express condition of this Settlement Agreement is that there has been no finding of liability on the merits, and that this Settlement Agreement therefore cannot be a basis to assert offensive collateral estoppel against Defendant. Notwithstanding the foregoing, nothing in this Settlement Agreement shall limit Defendant's use of the Judgment to establish res judicata and/or collateral estoppel in any other action.

2. **Gross Settlement Amount.** Defendant shall pay One Hundred Seven Thousand Five Hundred Dollars (\$107,500.00) as the Gross Settlement Amount. The Gross Settlement Amount is the maximum amount that Defendant may be required to pay under this Settlement Agreement. The Gross Settlement Amount will pay Administration Costs, Attorneys' Fees and Costs, and the PAGA Payment. The Gross Settlement Amount shall be all-in with no reversion to Defendant. The number of PAGA Settlement Employees during the PAGA Period are anticipated to be approximately **300**; if this amount increases by more than 5% before the Date of Settlement Approval, Defendant will have the option to either increase the Gross Settlement Amount in proportion to any such change or change the cutoff date for Settlement Employees to an earlier date so that the number PAGA Settlement Employees does not exceed 315.

3. **Deposit of Gross Settlement Amount.** Within ten (10) calendar days after the Effective Date, Defendant shall deposit with the Settlement Administrator the Gross Settlement Amount.

4. **Components of the Gross Settlement Amount.** The Parties agree to the following allocations to be paid from the Gross Settlement Amount:

a. **PAGA Payment:** The PAGA Payment shall be paid in settlement of the PAGA Released Claims. Should the amount of the PAGA Payment increase or decrease, the amount to be distributed shall be adjusted accordingly. The PAGA Payment will be subject to Court approval consistent with Labor Code section 2699. The PAGA Payment shall be distributed as follows:

- (1) The LWDA shall receive 75% of the PAGA Payment; and

- (2) The PAGA Settlement Employees shall receive 25% of the PAGA Payment, which shall be allocated pursuant to the method identified in Paragraph IV.2 below.

b. **Attorneys' Fees and Costs:** Plaintiff intends to request attorney's fees in the amount of one-third (1/3) of the Gross Settlement Amount, or Thirty-Five Thousand Eight Hundred Thirty-Three Dollars and Thirty-Three Cents (\$35,833.33) and litigation costs up to Two Thousand Five Hundred Dollars (\$2,500.00) incurred in prosecuting this Action. The Attorney's Fees and Costs payment shall be paid in accordance with the approval of the Court. This payment of Attorney's Fees and Costs constitutes full satisfaction of any obligation to pay any amounts to any attorney or law firm for attorney's fees, expenses or costs incurred by any attorney on behalf of Plaintiff, PAGA Settlement Employees and/or the State of California in connection with the Action, and shall relieve Defendant and Defendant's counsel of any other claims or liability to any other attorney or law firm for attorney's fees, expenses and/or costs to which any of them may claim to be entitled on behalf of Plaintiff, PAGA Settlement Employees and/or the State of California in connection with the Action. If the Court approves a lower amount in fees or costs than requested by Plaintiff's counsel, the difference will be added to the PAGA Payment. This payment will be reported on an IRS Form 1099 issued to Plaintiff's counsel. Except as set forth herein, each Party shall bear their own costs and fees of this Action.

c. **Administration Costs.** The Settlement Administration Costs are currently estimated to be \$3,000.00. In the event the Court approves a payment of less than this amount, or if the actual cost to administer the settlement is less, the difference will be added to the PAGA Payment

5. **Release.**

a. **Release by Plaintiff on Behalf of the LWDA.** In his capacity as a private attorney general "aggrieved employee" acting on behalf of himself and as proxies or agents of the LWDA, Plaintiff agrees to release Defendant and the Released Parties, from any and all PAGA Released Claims (as defined below) that arose during the PAGA Period. The express purpose of this Settlement Agreement and the Judgment to be entered by the Court following approval of this Settlement Agreement is to forever bar Plaintiff, the LWDA, and any other individual or entity acting on behalf of or purporting to act on behalf of the LWDA from asserting any of the PAGA Released Claims in any future litigation. It is the intent of the Parties that, to the greatest extent provided by law, including under the holding of *Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009), the ability of Plaintiff, the State of California, and any PAGA Settlement Employee (which includes any legal heirs and/or successors in interest of each and every PAGA Settlement Employee,) to bring a PAGA Released Claim on behalf of the LWDA is completely and forever foreclosed. Any Party to this Settlement Agreement may use the Settlement Agreement to assert that this Settlement Agreement and the Judgment to be entered by the Court following approval of this Settlement Agreement bars any later-filed action asserting any of the PAGA Released Claims against any of the Released Parties. The provisions of this paragraph apply regardless of whether Plaintiff and/or the PAGA Settlement Employees cash their Individual PAGA Payment checks, so long as the Gross Settlement Amount is administered and carried out according to this Settlement Agreement.

b. **PAGA Released Claims.** "PAGA Released Claims" means any and all claims for civil penalties and attorneys fees or costs under the PAGA as alleged, or that could have reasonable been alleged, based on the facts alleged in the operative complaint in the Action, that are based on Labor Code Sections 201, 202, 203, 204, 226(a), 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(9), 226.7, 226.7(c), 227.3, 246, 246(l), 510, 512, 1194, 1198, 2698, and 2699 et. seq.

6. **Covenants and Representations by Plaintiff.**

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

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

7. **Court Approval.** Subject to Defendant's review and approval prior to filing, Plaintiff's Counsel shall be responsible for preparing and filing a Motion for Approval of the Settlement Agreement ("Motion") and taking any steps necessary for the Court to grant approval of the settlement terms and enter Judgment. Plaintiff's Counsel will provide Defendant's counsel with a draft of the Motion at least three (3) business days prior to filing such that Defendant has an opportunity to comment on and propose revisions to the Motion before it is filed. The Parties agree to undertake any reasonable efforts necessary for the Court to approve the Settlement Agreement and enter Judgment.

8. **LWDA Notice.** The Motion referenced above in paragraph III. 7 shall also be served on the LWDA when it is filed with the Court. Within ten (10) business days of the Judgment, Plaintiff shall also submit a copy of the Judgment to the LWDA consistent with Labor Code section 2699(l)(3).

9. **Non-Approval of Settlement Agreement.** Because settlement of the Action requires Court approval pursuant to Labor Code section 2699(l)(2), the Settlement Agreement is conditional and contingent upon approval and entry of Judgment. If the Court does not approve this Settlement Agreement, or if appellate review is sought and on such review the Court's decision is materially modified or reversed, then each of the Parties by and through Counsel, will cooperate with each other and use their best efforts to revise the affected term(s) of the Settlement Agreement. If, however, the Court does not approve the Gross Settlement Amount or any language in Paragraph III.5, either Party shall have the right within ten (10) business days of written notice thereof to elect to terminate the Settlement Agreement, in which event it shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement. A reduction by the Court or on appeal as to the amount of Attorney's Fees and Costs allocated herein does not provide a basis for terminating this Settlement Agreement.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Settlement Administrator's duties shall include the following: update addresses for PAGA Settlement Employees via the USPS National Change of Address database and perform a skip tracing process to determine the best, most recent address prior to distribution of the Gross Settlement Amount; determine Individual PAGA Payment amounts for each PAGA Settlement Employee; distribute Individual PAGA Payments to PAGA Settlement Employees; re-mail undeliverable Individual PAGA Payment checks; distribute payments for Attorneys' Fees and Costs to Plaintiff's Counsel; make payment to the LWDA for its 75% share of the PAGA Payment; and perform related tax, accounting, and administration services.

2. **Individual PAGA Payments.** The Settlement Administrator will pay PAGA Settlement Employees 25% of the PAGA Payment as their portion of the recovery of civil penalties under PAGA. Each PAGA Settlement Employee's Individual PAGA Payment will be calculated and apportioned based on the number of Customer Satisfaction Awards they received during the PAGA Period. Specific calculations of Individual PAGA Payments will be made as follows:

a. Based on its records, Defendant will calculate the total number of Pay Periods worked by each PAGA Settlement Employee in which they received a Customer Satisfaction Award during the PAGA Period and the aggregate total number of Pay Periods worked by all PAGA Settlement Employees in which they received a Customer Satisfaction Award during the PAGA Period.

b. The Settlement Administrator will use the following formula: 25% of the PAGA Payment will be divided by the aggregate total number of Pay Periods in which all PAGA Settlement Employees in which they received a Customer Satisfaction Award during the PAGA Period, resulting in the "Pay Period Value". Each PAGA Settlement Employee's Individual PAGA Payment will be calculated by multiplying each PAGA Settlement Employee's total number of Pay Periods in which he or she received a Customer Satisfaction Award during the PAGA Period by the Pay Period Value.

3. **PAGA Settlement Employee Information.** Defendant will provide the necessary information about the PAGA Settlement Employees (i.e., full name, last known address, social security number, and number of Pay Periods worked during the PAGA Period) to the Settlement Administrator within ten (10) calendar days of the Effective Date.

4. **Distribution of Gross Settlement Amount.**

a. Within ten (10) calendar days after receipt of the Gross Settlement Amount from Defendant, the Settlement Administrator will issue to each PAGA Settlement Employee at their last known address a check for their Individual PAGA Payment, along with an explanatory notice (the Parties have agreed on the form of the notice, which is attached as Exhibit A and incorporated herein by reference). Checks will remain negotiable for one hundred eighty (180) calendar days. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto.

If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address or Social Security number of the PAGA Settlement Employee involved, and will then perform a single re-mailing. The Settlement Administrator shall mail a check-cashing reminder postcard to those PAGA Settlement Employees who have not negotiated their Individual PAGA Payment checks within ninety (90) calendar days of mailing. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining uncashed for more than 180 calendar days after issuance shall be deposited by the Settlement Administrator with the California State Controller to be deposited in the Unclaimed Property Fund in the name of the PAGA Settlement Employee. A PAGA Settlement Employee's failure to claim or deposit any check issued by the Settlement Administrator shall have no effect on that PAGA Settlement Employee's release of all PAGA Released Claims set forth herein.

b. Within five (5) business days after receipt of the Gross Settlement Amount from Defendant, the Settlement Administrator will pay from the Gross Settlement Amount to the LWDA the amount allocated to the LWDA and will pay to Plaintiff's Counsel the Attorneys' Fees and Costs as approved by the Court. The Settlement Administrator shall use the Administration Costs to pay for any fees and costs associated with the administration of this settlement and distribution of the Gross Settlement Amount.

c. No person shall have any claim against Defendant, Defendant's counsel, Plaintiff, the PAGA Settlement Employees, Plaintiff's Counsel or the Settlement Administrator based on mailings, distributions and payments made in accordance with this Settlement Agreement.

5. **No Right to Opt Out.** Because the Action is a PAGA action and Plaintiff is pursuing the Action on behalf of the State of California, the Parties agree that no PAGA Settlement Employee has the right to opt out of the Settlement.

6. **Accounting.** The Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid out.

7. **No Tax Representations.** The Parties agree that all tax obligations, if any, which may arise from the payments set forth above shall be the sole obligation of Plaintiff and/or PAGA Settlement Employees. Plaintiff acknowledges that Defendant makes no representations or warranties with respect to any tax consequences or characterization of the nature of any payment under this Settlement Agreement.

V. MISCELLANEOUS PROVISIONS

1. **Stay of Litigation.** The Parties agree to stay this litigation, except to the extent necessary to complete, finalize and implement this Settlement Agreement.

2. **Drafting.** The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and

that neither Party shall be considered the “drafter” of this Settlement Agreement for purposes of having terms construed against that Party.

3. **Successors.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and his/its respective heirs, trustees, executors, administrators, successors, and assigns.

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

5. **Authority.** Defendant represents and warrants that the undersigned has the authority to act on behalf of Defendant and to bind Defendant to the terms of this Settlement Agreement. Plaintiff represents and warrants that he has the capacity to act on his own behalf and on behalf of all who might claim through him to bind him to the terms and conditions of this Settlement Agreement, including each and every PAGA Settlement Employee (which includes any legal heirs and/or successors-in-interest of each and every PAGA Settlement Employee) and the LWDA.

6. **Governing Law.** This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement is and shall be deemed to have been entered into in California and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the Court.

7. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA claims. This Settlement Agreement cannot be amended or modified except by a writing signed by the Parties hereto or their successors-in-interest.

8. **Nullification of Settlement Agreement.** In the event that: (i) the Court does not approve the Settlement Agreement and enter Judgment as provided herein despite the efforts made under Paragraph III.9, or (ii) the Settlement Agreement does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

9. **Judgment and Continued Jurisdiction.** Following the Judgment, the Court will have continuing jurisdiction solely for purposes of enforcing the Judgment.

10. **Execution and Counterparts.** This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic, facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument.

11. **Acknowledgement that the Settlement is Fair, Adequate, and Reasonable.** The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action, acknowledging that the Court “may award a lesser amount than the maximum civil penalty amount specified by” PAGA “if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(e)(2). The Parties have arrived at this Settlement Agreement after arm’s-length negotiations between experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement Agreement.

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

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

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

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

16. **Cooperation, Execution of Necessary Documents and Disputes.** The Parties and their counsel will cooperate with each other in good faith and use their best efforts to effect the implementation of the Settlement Agreement and receive approval from the Court. The Court will retain continuing jurisdiction as to the implementation of the Settlement Agreement, interpretation of the Settlement Agreement, the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement.

17. **Enforcement of Agreement.** If the either Party prevails in an action to enforce any provision of this Settlement Agreement, or relating to either Party’s breach of any provision of this Agreement, then, in addition to any other relief to which the Party may be entitled, the breaching Party shall reimburse the non-breaching Party for the costs and reasonable attorneys’ fees incurred in any such action.

18. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms. The Parties further agree that, as of the Effective Date, Plaintiff, all other PAGA Settlement Employees, the LWDA, and Defendant shall be bound by this Settlement Agreement as to the Action.

19. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of the Settlement Agreement, Plaintiff, PAGA Settlement Employees, the LWDA, and Defendant, inclusive, hereby waive any and all rights to appeal in connection with the Judgment, with the exception that Plaintiff and/or Plaintiff's Counsel may appeal any order denying or reducing their requested Attorneys' Fees and Costs.

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

[SIGNATURES ARE ON THE NEXT PAGE]

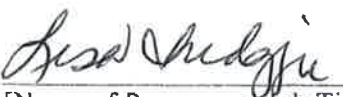
Dated: 5/12/2023

LEE AKOMA

By: 
Plaintiff

Dated: 5/16/2023

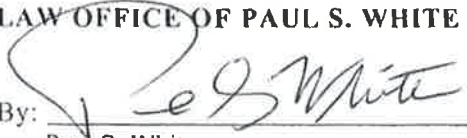
AMERICAN BUILDERS AND
CONTRACTORS SUPPLY CO. INC.

By:  VP Associate Services
[Name of Person and Job Title with
Authority to Sign]

APPROVED AS TO FORM:

Dated: 5/15/23

LAW OFFICE OF PAUL S. WHITE

By: 
Paul S. White
Attorney for Defendant

Dated: May 12, 2023

MASHIRI LAW FIRM, APC

By: 
Alex Mashiri
Attorney for Plaintiff

Dated: May 12, 2023

THE JAMI LAW FIRM P.C.

By: 
Tamim Jami
Attorney for Plaintiff

EXHIBIT A

EXHIBIT A

NOTICE OF SETTLEMENT OF PAGA REPRESENTATIVE ACTION

Case Name: *Lee Ankoma v. American Builders and Contractors Supply Co. Inc.*
Case Number: San Diego Superior Court Case No. 37-2021-00044057-CU-OE-CTL

Aggrieved Employee

Address

Address

You are receiving this notice in connection with a Court-approved settlement (the "Settlement") in a lawsuit brought on a representative basis under the Labor Code Private Attorneys General Act of 2004, California Labor Code §§ 2698, *et seq.* ("PAGA"). The plaintiff in the lawsuit is Lee Ankoma ("Plaintiff") and the Defendant is American Builders and Contractors Supply Co. Inc. ("ABC Supply"). The Settlement provides for recovery of civil penalties for purported violations of the California Labor Code on behalf of all individuals who worked for ABC Supply in California as non-exempt employees during the PAGA Period, which is August 9, 2020 through **Approval Date**, who received Customer Satisfaction Awards ("Eligible Employees"). The PAGA statute provides that 75% of any recovery pursuant to the Settlement be paid to the State of California and 25% of any recovery be paid to the "aggrieved employee" group, which in this case is the group of Eligible Employees.

ABC Supply denies all claims and allegations in the lawsuit, denies that it owes any penalties, and asserts that it has fully complied with all applicable Labor Code provisions. Nevertheless, to avoid further costs and time in defending the lawsuit, ABC Supply has settled the lawsuit. By settling the lawsuit, ABC Supply is not admitting that it has done anything wrong.

The Settlement resolves all claims seeking the civil penalties available to the California Labor and Workforce Development Agency ("LWDA") under the California Labor Code predicated on the PAGA claims that were alleged or could have reasonably been alleged in the lawsuit based on the facts alleged therein, during the PAGA Period, against ABC Supply and the Released Parties, including all PAGA claims under California Labor Code sections 201, 202, 203, 204, 226(a), 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(9), 226.7, 226.7(c), 227.3, 246, 246(l), 510, 512, 1194, 1198, and 2699 (the "Released PAGA Claims"). **This Settlement is only for civil penalties under the PAGA and excludes any individual claims for unpaid wages or legal remedies.**

By an Order dated **Approval Date**, the Superior Court approved the Settlement of the PAGA claims. By approving the Settlement, the Court did not decide in favor of either Plaintiff or ABC Supply.

According to ABC Supply records, you are an Eligible Employee and are therefore entitled to a share of the Settlement based upon the Court-approved allocation. Enclosed with this Notice is your check for your share. The settlement check shall remain valid for one hundred eighty (180) calendar days. Thereafter, all uncashed checks shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law in the name of, and for the benefit of, the Eligible Employee that did not cash his or her settlement check.

Please Note: One hundred percent (100%) of the payment you are receiving in connection with the Settlement will be considered penalties and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences of your settlement payment. Neither Plaintiff nor ABC Supply has made any representations or warranties regarding the taxation of your settlement payment. Nothing in this Notice or any other communication shall constitute or be construed or relied upon as tax advice.

PLEASE DO NOT CALL OR WRITE THE COURT OR OFFICE OF THE CLERK TO ASK QUESTIONS ABOUT THE SETTLEMENT. IF YOU HAVE ANY QUESTIONS, YOU MAY CALL OR WRITE TO THE SETTLEMENT ADMINISTRATOR AT:

[ADMIN NAME]

[ADDRESS]

[ADDRESS]

[ADDRESS]
