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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SOLANO**

MARCOS SEGURA and MIGUEL SEGURA,
individually, and on behalf of all others similarly
situated,

Plaintiffs,

vs.

E. B. STONE & SON, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants

Case No.: FCS056951

CLASS ACTION

Assigned for All Purposes to the Honorable Alesia
Jones, Department 22

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT
AGREEMENT**

Action Filed: September 21, 2021
Trial Date: Not Set

JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT AGREEMENT

Subject to final approval of this Court, this Joint Stipulation of Class and PAGA Action Settlement Agreement (“Settlement,” “Agreement” or “Settlement Agreement”) is made and entered into by and between Plaintiffs Marcos Segura and Miguel Segura (“Plaintiffs”) and Defendant E.B. Stone & Son, Inc. (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties” and individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means *Marcos Segura, et al. v. E.B. Stone & Son, Inc.*, Solano Superior Court, Case No. FCS056951.
- 1.2. “Administrator” means Pheonix, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with its “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all persons who worked for Defendant in California as hourly, nonexempt non-driver employees during the PAGA Period.
- 1.5. “Class” means all persons who worked for Defendant in California as hourly, nonexempt non-driver employees during the Class Period.
- 1.6. “Class Counsel” means Kane Moon, and Lilit Ter-Astvatsatryan of Moon Law Group, PC.
- 1.7. “Class Counsel Fees Payment” means the amount allocated to Class Counsel for reimbursement of the reasonable attorneys’ fees incurred to prosecute the Action.
- 1.8. “Class Counsel Expenses Payment” means the amount allocated to Class Counsel for reimbursement of the reasonable attorneys’ expenses incurred to prosecute the Action.

- 1.9. “Class Data” means Class Member identifying information in Defendant’s possession, including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.10. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member, including a Non-Participating Class Member who qualifies as an Aggrieved Employee.
- 1.11. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods, and means, including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.12. “Class Notice” means the court-approved Notice of Class and PAGA Action Settlement to be mailed to Class Members in English and Spanish, substantially in the form attached to this Settlement Agreement as **Exhibit A** and incorporated by reference herein.
- 1.13. “Class Period” means the period from August 10, 2017, to January 1, 2024.
- 1.14. “Class Representatives” means Marcos Segura and Miguel Segura, the named Plaintiffs in the Action seeking Court Approval to serve as Class Representatives.
- 1.15. “Class Representative Service Payment” means the up to \$7,500.00 payment for each of the named Class Representatives for initiating the Action and providing services in support of the Action.
- 1.16. “Court” means the Superior Court of California, County of Solano.
- 1.17. “Defendant” means Defendant E.B. Stone & Son, Inc.
- 1.18. “Defense Counsel” means Gregory L. Spallas of Phillips, Spallas & Angstadt LLP.

1.19. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters its Order Granting Final Approval; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.20. "Final Approval" means the Court Order Granting Final Approval of the Settlement.

1.21. "Final Approval Hearing" means the Hearing on Plaintiffs' Motion for Final Approval of the Settlement.

1.22. "Judgment" means the Judgment Granting Final Approval of the Settlement.

1.23. "Gross Settlement Amount" means \$656,250.00 which is the total amount that Defendant agrees to pay under the Settlement Agreement, subject to the terms in Paragraph 7 below. The Gross Settlement Amount shall be used to satisfy all of Defendant's liabilities arising from the settlement, including payment of all employee-side taxes on payments made to Participating Class Members, interest, Plaintiffs' attorneys' fees and costs, the incentive award for Plaintiffs, payments to all Participating Class Members, the payment to the California Labor and Workforce Development Agency ("LWDA"), and the payments to all Aggrieved Employees. Defendant will not pay more than the Gross Settlement Amount, plus employer-side taxes on the wage payments made to Participating Class Members. The Gross Settlement amount is non-reversionary, and non-claims made.

1.24. "Individual Class Payment" means a Participating Class Member's *pro rata* share of the Net Settlement Amount calculated according to the number of Workweeks he or she worked during the Class Period.

- 1.25. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods he or she worked during the PAGA Period, pursuant to Labor Code section 2699(i).
- 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled under Labor Code section 2699(i).
- 1.27. "LWDA PAGA Payment" means 75% of the PAGA Penalties paid to the LWDA, pursuant to Labor Code section 2699(i).
- 1.28. "Net Settlement Amount" means the Gross Settlement Amount less the following payments approved by the Court: Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payments, Administration Fees, Individual PAGA Payments, and LWDA PAGA Payments. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement Agreement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. "Operative Complaint" means the First Amended Class and Representative Action Complaint.
- 1.31. "PAGA" means the California Labor Code Private Attorneys General Act of 2004.
- 1.32. "PAGA Notice" means the August 6, 2021, notice Plaintiffs submitted to the LWDA regarding potential Labor Code violations, pursuant to Labor Code section 2699.3(a).
- 1.33. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount in settlement of the PAGA Claims. The PAGA Penalties will be allocated 25% to the Aggrieved Employees and the 75% to LWDA, pursuant to Labor Code section 2699(i).

- 1.35. "PAGA Period" means the period from August 10, 2020, to January 1, 2024.
- 1.36. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. "Plaintiffs" mean the named Plaintiffs in the Action, Marcos Segura and Miguel Segura.
- 1.38. "Preliminary Approval" means the Court Order Granting Preliminary Approval of the Settlement.
- 1.39. "Preliminary Approval Order" means the Order Granting Preliminary Approval of the Class Settlement and Approval of PAGA Settlement.
- 1.40. "Released Class Claims" means the Release of Claims by Participating Class Members as described in Paragraph 6.2.
- 1.41. "Released PAGA Claims" means the Limited Release of Claims by Aggrieved Employees as described in Paragraph 6.3.
- 1.42. "Released Parties" means: Defendant, and each of their former, present, and future owners, parents, and subsidiaries, and all of their current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.
- 1.43. "Request for Exclusion" means a Class Member's timely submission of a valid written request to be excluded from the Class Settlement signed by the Class Member.
- 1.44. "Response Deadline" means sixty (60) days after the Administrator mails the Class Notice to the Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail a Request for Exclusion from the Settlement, or (b) fax, email, or mail an Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the

Administrator shall have an additional fourteen (14) days beyond the date the Response Deadline has expired.

1.45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.46. “Workweek” may be based on either: (1) weeks during which at least one day was worked; or (2) hire dates and, where applicable, last dates worked or separation dates, re-hire dates, dates of any periods of leave, including but not limited to worker’s compensation related leaves, and dates of any transition between non-exempt and exempt status.

2. **RECITALS.**

2.0. On August 10, 2021, Plaintiffs commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) failure to pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices. On October 20, 2021, Plaintiffs filed a First Amended Complaint adding a ninth cause of action for PAGA civil penalties under California Labor Code § 2699, *et seq.*

2.1. Pursuant to Labor Code §2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice on August 6, 2021.

2.2. On October 19, 2023, the Parties participated in private mediation with professional mediator, Kelly Knight, Esq. The Parties were ultimately able to reach a resolution, the terms of which are memorialized herein to settle the Action.

2.3. Prior to mediation, Plaintiffs obtained, in addition to other data, documents, and information, a sample of the time and corresponding payroll records of the Class, and the employee handbooks and relevant policies in effect during the Class Period and

overlapping PAGA Period. This investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008), in that such information and investigation was sufficient to assess the merits of the Parties' respective positions and to reach a compromise in the Action on a fair and equitable basis.

2.4. The Court has not granted class certification.

2.5. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by this Settlement.

3. **MONETARY TERMS.**

3.0. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant agrees to pay the total amount of \$656,250.00. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 5.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit a claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.1. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount in the amounts specified by the Court in the Final Approval:

3.1.1. To Plaintiffs: A Class Representative Service Payment to the Class Representatives of not more than \$7,500.00 for each Plaintiff, in addition to any Individual Class Payment and Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member and Aggrieved Employee. Defendant will not oppose a request for this payment

provided it does not exceed this amount. As part of the motion for the Class Counsel Fees Payment and Class Counsel Expenses Payment, Plaintiffs will seek Court approval for the Class Representative Service Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves the Class Representative Service Payment in an amount less than requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.1.2. To Class Counsel: A Class Counsel Fees Payment of not more than thirty-three and one-third percent (33.33%) of the Gross Settlement Amount, which is currently estimated to be \$218,729.00; and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendant will not oppose requests for these payments provided they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Expenses Payment. The Administrator will report the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assume full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Expenses Payment, and shall hold Defendant harmless, and indemnify

1 Defendant from any dispute or controversy regarding any division or sharing of
2 the Class Counsel Fee Payment and/or Class Counsel Litigation Expenses
3 Payment.

4 3.1.3. To the Administrator: An Administrator Expenses Payment not to exceed
5 \$7,000, except for a showing of good cause and as approved by the Court. If the
6 Court approves payment less than the amount requested, or to the extent the
7 Administration Expense Payment is less than the amount requested, the
8 Administrator will allocate the remainder to the Net Settlement Amount.

9 3.1.4. To Each Participating Class Member: An Individual Class Payment calculated
10 by (a) dividing the Net Settlement Amount by the total number of Workweeks
11 worked by all Participating Class Members during the Class Period and (b)
12 multiplying the result by each Participating Class Member's Workweeks.

13 3.1.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
14 Class Member's Individual Class Payment will be allocated to
15 settlement of claims for wages (the "Wage Portion"). The Wage Portion
16 is subject to tax withholding and will be reported on an IRS W-2 Form.
17 80% of each Participating Class Member's Individual Class Payment
18 will be allocated to settlement of claims for interest and penalties (the
19 "Non-Wage Portion"). The Non-Wage Portion is not subject to wage
20 withholdings and will be reported on IRS 1099 Forms. Participating
21 Class Members assume full responsibility and liability for any employee
22 taxes owed on their Individual Class Payment.

23 3.1.4.2. Effect of Non-Participating Class Members on Calculation of Individual
24 Class Payments. Non-Participating Class Members will not receive any
25 Individual Class Payments. The Administrator will allocate amounts
26 equal to their Individual Class Payments to the Net Settlement Amount

for distribution to Participating Class Members on a pro rata basis.

3.1.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$50,000.00 to be paid from the Gross Settlement Amount, with 75% (\$37,500.00) allocated to the LWDA PAGA Payment and 25% (\$12,500.00) allocated to the Individual PAGA Payments. If the Court approves PAGA Penalties less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. Aggrieved Employees assume full liability for any taxes owed on their Individual PAGA Payment.

3.1.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$12,500.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods.

4. **MOTION FOR PRELIMINARY APPROVAL**

4.0. Motion for Preliminary Approval. Plaintiffs will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice. Defendant will be given a reasonable opportunity to review and provide comments on the proposed Motion for Preliminary Approval prior to its filing.

4.1. LWDA Notice. Concurrent with applying to the Court for the entry of an order granting Preliminary Approval of the Settlement, Class Counsel shall take all necessary steps to inform the LWDA of the Agreement in accordance with Labor Code section 2699(1)(2).

5. **SETTLEMENT FUNDING AND PAYMENTS.**

5.0. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval

of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator in the form of a Microsoft Excel spreadsheet or equivalent electronic form. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Nothing in this confidentiality provision shall be construed or work to preclude Class Counsel from performing their fiduciary duties to the Class. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member Identifying Information and to provide corrected Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to resolve any issues related to missing or omitted Class Data.

5.1. Funding of Gross Settlement Amount. No later than thirty (30) days of Effective Date, the Court granting Final Approval, Defendant shall fully fund the Gross Settlement Amount and the amounts necessary to fully pay their share of payroll taxes by transmitting the funds to the Administrator.

5.2. Payments from the Gross Settlement Amount. No later than fourteen (14) days after Defendant funds the Gross Settlement Amount, the Administrator shall mail checks for the Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and Administration Expenses Payment. Disbursement of the Class Counsel Fees Payment, Class Counsel Expenses Payment, and Class Representative Service Payment shall not precede disbursement of the Individual Class Payments and Individual PAGA Payments.

1 5.2.1. The Administrator will issue checks for the Individual Class Payments and/or
2 Individual PAGA Payments and send them to the Class Members via First Class
3 U.S. Mail, postage prepaid. The face of each check shall prominently state the
4 date (not less than 180 days after the date of mailing) when the check will be
5 voided. The Administrator will cancel all checks not cashed by the void date.
6 The Administrator will send checks for Individual Class Payments to all
7 Participating Class Members, including those for whom Class Notice was
8 returned undelivered. The Administrator will send checks for Individual PAGA
9 Payments to all Aggrieved Employees, including Non-Participating Class
10 Members who qualify as Aggrieved Employees and those for whom Class
11 Notice was returned undelivered. The Administrator may send Participating
12 Class Members a single check combining their Individual Class Payment and
13 Individual PAGA Payment. Before mailing any checks, the Settlement
14 Administrator must update the recipients' mailing addresses using the National
15 Change of Address Database. The Administrator must conduct a Class Member
16 Address Search for all other Class Members whose checks are returned
17 undelivered without USPS forwarding address.

18 5.2.2. No later than seven (7) days of receiving a returned check, the Administrator
19 must re-mail the check to the USPS forwarding address provided or to an
20 address ascertained through the Class Member Address Search. The
21 Administrator need not take further steps to deliver the check to the Class
22 Member whose re-mailed check is returned as undelivered. The Administrator
23 shall promptly send a replacement check to any Class Member whose original
24 check is lost or misplaced, requested by the Class Member prior to the void date.

25 5.2.3. For any Class Member whose Individual Class Payment check or Individual
26 PAGA Payment check is uncashed and cancelled after the void date, the

Administrator shall transmit the funds represented by such checks to Legal Aid at Work, in accordance with Code of Civil Procedure §384(b) (“Cy Pres Recipient”). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

5.2.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

6. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and the Court enters an order granting Final Approval of this Settlement, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1 Plaintiffs’ Release. Upon final approval of the settlement and payment made by Defendant of the Gross Settlement Amount to the Third Party Administrator chosen by the Parties, Plaintiffs will release the Released Parties from any and all claims Plaintiffs have or may have against them at this time and will waive any and all rights they have or may have under California Civil Code section 1542, including but not limited to California Labor Code §§ 201, 202.3, 202, 203, 204, 210, 226, 226.3, and 226.7, *et seq.*, Labor Code §§ 510, 512, 558, *et seq.*, Labor Code §§ 1194, 1197.1, 1198, 1199, *et seq.*, and 2698, *et seq.*, and the applicable sections of IWC Wage Orders.

6.1.1 Plaintiffs’ Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs’ Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or

1 **releasing party does not know or suspect to exist in his or her**
2 **favor at the time of executing the release and that, if known by**
3 **him or her, would have materially affected his or her settlement**
4 **with the debtor or Released Party.**

5 6.1.2 Plaintiffs' Release does not extend to any claims or actions to enforce this
6 Agreement or to any claims for alleged vested benefits, unemployment benefits,
7 disability benefits, social security benefits, workers' compensation benefits that
8 arose at any time.

9 6.1.3 Plaintiffs acknowledge that they may discover facts or law different from, or in
10 addition to, the facts or law that they now know or believe to be true but agrees,
11 nonetheless, that Plaintiffs' Release shall be and remain effective in all respects,
12 notwithstanding such different or additional facts, or Plaintiffs' discovery of
13 them.

14 6.2 Release of Claims by Participating Class Members: Upon final approval of the
15 settlement and payment made by Defendant of the Gross Settlement Amount to the
16 Third Party Administrator chosen by the Parties, All Participating Class Members, on
17 behalf of themselves and their respective former and present spouses, family members,
18 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release
19 Released Parties from (i) all claims that were alleged, or reasonably could have been
20 alleged, based on the facts stated in the Operative Complaint during the Class Period,
21 including, e.g., any and all claims arising under California Labor Code sections 201,
22 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198,
23 2802 and the applicable Industrial Welfare Commission Wage Orders based on any
24 alleged failure to pay minimum wage; failure to pay overtime compensation; failure to
25 pay paid time off wages; failure to provide meal periods; failure to authorize and
26 permit rest periods; failure to indemnify necessary business expenses; failure to timely
27 pay final wages; failure to timely pay wages during employment; failure to provide
28 accurate wage statements; failure to keep adequate records; and unfair business

practices arising under California Business and Professions Code section 17200, *et seq.* Excluded from this portion of the release are claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the Plaintiffs' PAGA Notice during the PAGA Period. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

6.3 Limited Release of Claims by Aggrieved Employees: Upon final approval of the settlement and payment made by Defendant of the Gross Settlement Amount to the Third Party Administrator chosen by the Parties, all Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present spouses, family members, representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and/or the Plaintiff's PAGA Notice during the PAGA Period, including any claim for PAGA penalties based on alleged violations of California Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198, 2802 and the applicable Industrial Welfare Commission Wage Orders based on any alleged failure to pay minimum wage; failure to pay overtime compensation; failure to pay paid time off wages; failure to provide meal periods; failure to authorize and permit rest periods; failure to indemnify necessary business expenses; failure to timely pay final wages; failure to timely pay wages during employment; failure to provide accurate wage statements; and/or failure to keep adequate records.

1 **7. SETTLEMENT ADMINISTRATION.**

2 7.1 Selection of Administrator. The Parties have jointly selected Phoenix to serve as the
3 Administrator and verified that, as a condition of appointment, Phoenix agrees to be
4 bound by this Agreement and to perform, as a fiduciary, all duties specified in this
5 Agreement in exchange for payment of Administration Expenses. The Parties and their
6 Counsel represent that they have no interest or relationship, financial or otherwise, with
7 the Administrator other than potentially a professional relationship arising out of prior
8 experiences administering settlements.

9 7.2 Employer Identification Number. The Administrator shall have and use its own
10 Employer Identification Number for purposes of calculating payroll tax withholdings
11 and providing reports to state and federal tax authorities.

12 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that
13 meets the requirements of a Qualified Settlement Fund (“QSF”) under U.S. Treasury
14 Regulation section 468B-1.

15 7.4 Notice to Class Members.

16 7.4.1 No later than three (3) business days after receipt of the Class Data, the
17 Administrator shall notify Class Counsel that the list has been received and state
18 the number of Class Members, Aggrieved Employees, Workweeks, and PAGA
19 Pay Periods in the Class Data.

20 7.4.2 Using best efforts to perform as soon as possible, and in no event later than
21 fourteen (14) days after receiving the Class Data, the Administrator will send to
22 all Class Members identified in the Class Data, via first-class United States
23 Postal Service (“USPS”), the Class Notice, in English and Spanish and
24 substantially in the form attached to this Agreement as **Exhibit A**. The Class
25 Notice shall prominently estimate the dollar amounts of any Individual Class
26 Payment and/or Individual PAGA Payment payable to the Class Member, and

the number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than three (3) business days after its receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by USPS. If USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send the Class Notice to Class Members whose Class Notice is returned by USPS a second time.

7.4.4 The deadlines for Class Members' written Objections, challenges to Workweeks and/or pay periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the sixty (60) days otherwise provided in the Class Notice for all Class Members whose notices are re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, Defendant, Defense Counsel, or Class Counsel is contacted by or otherwise discovers any person who believe he or she should have been included in the Class Data and received a Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as a Class Member. If the Parties agree, such person will be a Class Member entitled to the same rights as other Class Members and the Administrator will send, via email or overnight delivery, a Class Notice requiring him or her to exercise options under this Agreement no later than fourteen (14) days after receipt of Class Notice, or the deadline dates

in the Class Notice, whichever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 No later than sixty (60) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed), Class Members who wish to exclude themselves from the Class Settlement must fax, email, or mail the Administrator a signed written Request for Exclusion. A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, the last four digits of social security number, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be reviewed by the Court at the Final Approval Hearing. The Court's determination shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Limited Release of Claims by Participating Class Members and PAGA Group Members under Paragraph 6.2 and 6.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class

1 Payment or have the right to object to the class action components of the
2 Settlement. Because future PAGA claims are subject to claim preclusion upon
3 entry of the Judgment, Non-Participating Class Members who are Aggrieved
4 Employees are deemed to release the claims identified in Paragraph 6.3 of this
5 Agreement and are eligible for an Individual PAGA Payment.

6 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days
7 after the Administrator mails the Class Notice (plus an additional fourteen (14) days for
8 Class Members whose Class Notice is re-mailed) to challenge the number of Class
9 Workweeks and PAGA Pay Periods allocated to the Class Member in the Class Notice.
10 The Class Member may challenge the allocation by communicating with the
11 Administrator via fax, email, or mail. Defendant's business records will be presumed
12 determinative, but the Class Member may produce evidence to the Administrator
13 supporting documentation or evidence indicating the dates contended to have been
14 worked. The Administrator shall review the challenge and reach a conclusion. The
15 Administrator shall promptly provide copies of all challenges to calculation of
16 Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the
17 Administrator's determination of the challenges. Class Counsel and Defense Counsel
18 shall submit the Administrator's decision to the Court for the Court's review. The
19 Court's decision shall be final and not appealable or otherwise susceptible to challenge.
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1 7.7 Objections to Settlement.

2 7.7.1 No later than sixty (60) days after the Administrator's mailing of the Class
3 Notice (plus an additional fourteen (14) days for Class Members whose Class
4 Notice was re-mailed), Participating Class Members who elect to send a written
5 objection to the Administrator must send a written objection to the
6 Administrator, by fax, email, or mail. In the alternative, Participating Class
7 Members may appear in Court (or hire an attorney to appear in Court) to present
8 verbal objections at the Final Approval Hearing.

9 7.7.2 Only Participating Class Members may object to the class action components of
10 the Settlement and/or this Agreement, including contesting the fairness of the
11 Settlement and/or amounts requested for the Class Counsel Fees Payment, Class
12 Counsel Expenses Payment and/or Class Representative Service Payment. Non-
13 Participating Class Members have no right to object to any of the class action
14 components of the Settlement.

15 7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to
16 be performed or observed by the Administrator contained in this Agreement or
17 otherwise.

18 7.8.1 Website, Email Address and Toll-Free Number. The Administrator will
19 establish, maintain, and use an internet website to post information of interest to
20 Class Members, including the date, time and location for the Final Approval
21 Hearing and copies of the Agreement, Motion for Preliminary Approval,
22 Preliminary Approval, Class Notice, Motion for Final Approval, Motion for
23 Class Counsel Fees Payment, Class Counsel Expenses Payment, and Class
24 Representative Service Payment, Final Approval and Judgment. The
25 Administrator will also maintain and monitor an email address and toll-free
26 telephone number to receive Class Member calls, faxes and emails.

1 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
2 promptly review on a rolling basis Requests for Exclusion to ascertain their
3 validity.

4 7.8.2.1 Not later than five (5) days after the expiration of the deadline for
5 submitting a Request for Exclusion, the Administrator shall email a list
6 to Class Counsel and Defense Counsel containing (a) the names and
7 other identifying information of Class Members who have timely
8 submitted valid Requests for Exclusion (“Exclusion List”); (b) the names
9 and other identifying information of Class Members who have submitted
10 an invalid Request for Exclusion; (c) copies of all Requests for Exclusion
11 submitted (whether valid or invalid).

12 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written
13 reports to Class Counsel and Defense Counsel that, among other things, tally the
14 number of: Class Notices mailed or re-mailed, Class Notices returned
15 undelivered, Requests for Exclusion (whether valid or invalid) received,
16 objections received, challenges to Workweeks and/or PAGA Pay Periods
17 received and/or resolved, and checks mailed for Individual Class Payments and
18 Individual PAGA Payments (“Weekly Report”). The Weekly Reports must
19 include the Administrator’s assessment of the validity of any Requests for
20 Exclusion and attach copies of all Requests for Exclusion and objections
21 received.

1 7.8.4 Administrator's Declaration. Not later than seven (7) days before the date by
2 which Plaintiffs are required to file the Motion for Final Approval of the
3 Settlement, the Administrator will provide Class Counsel and Defense Counsel
4 a signed declaration suitable for filing in Court attesting to its due diligence and
5 compliance with all of its obligations under this Agreement, including, but not
6 limited to, its mailing of Class Notice, the Class Notices returned as undelivered,
7 the re-mailing of Class Notices, attempts to locate Class Members, the total
8 number of Requests for Exclusion from Settlement it received (both valid or
9 invalid), the number of written objections and attach the Exclusion List. The
10 Administrator will supplement its declaration as needed or requested by the
11 Parties and/or the Court. Class Counsel is responsible for filing the
12 Administrator's declaration(s) in Court.

13 7.8.5 Final Report by Settlement Administrator. No later than ten (10) days after the
14 Administrator disburses all funds in the Gross Settlement Amount, the
15 Administrator will provide Class Counsel and Defense Counsel with a final
16 report detailing its disbursements by employee identification number, only of all
17 payments made under this Agreement. At least fifteen (15) days before any
18 deadline set by the Court, the Administrator will provide Class Counsel and
19 Defense Counsel a signed declaration suitable for filing in Court attesting to its
20 disbursement of all payments required under this Agreement. Class Counsel is
21 responsible for filing the Administrator's declaration in Court.

22 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

23 8.1 Based on a review of its business records to date, Defendant estimates there are
24 approximately 17,500 workweeks at issue during the Class Period, as of the date of
25 mediation (October 19, 2023). If the number of workweeks is ten percent (10%) higher,
26 or 19,250 workweeks worked during the Class Period, then Plaintiffs shall have the right

to request, at Defendant's election, either: (1) a pro rata increase in the Gross Settlement Amount equal to the percentage increase in workweeks above 19,250 (i.e., if the total workweeks increases by 12%, then a 2% increase to the Gross Settlement Amount); or (2) a cut-off of the Class Period to end on the date that total workweeks reaches 19,250. Workweeks may be based on either: (1) weeks during which at least one day was worked; or (2) hire dates and, where applicable, last dates worked or separation dates, re-hire dates, dates of any periods of leave, including but not limited to worker's compensation related leaves, and dates of any transition between nonexempt and exempt status.

9. DEFENDANT'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but are not obligated to, elect to withdraw from the Settlement within thirty (30) days of the expiration of the Response Deadline. The Parties agree that, if Defendant withdraws, the Settlement shall be void *ab initio*, have no force or effect whatsoever, and neither Party will have any further obligation to perform under this Agreement; except, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw no later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel. Late elections will have no effect.

10. MOTION FOR FINAL APPROVAL.

No later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiffs will file a Motion for Final Approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(I) and a Proposed Final Approval Order and Judgment.

10.1 Review rights. Defendant will be given a reasonable opportunity to review and provide comments on the proposed Motion for Final Approval prior to its filing.

1 10.2 Response to Objections. Each Party retains the right to respond to any objection raised
2 by a Participating Class Member, including the right to file responsive documents in
3 Court no later than five (5) court days prior to the Final Approval Hearing, or as
4 otherwise ordered or accepted by the Court.

5 10.3 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
6 Approval on any material change to the Settlement, including, but not limited to, the
7 scope of release to be granted by Class Members, the Parties will expeditiously work
8 together in good faith to attempt to address the Court's concerns by revising the
9 Agreement as necessary to obtain Final Approval. The Court's decision to award less
10 than the amounts requested for the Class Representative Service Payment, Class
11 Counsel Fees Payment, Class Counsel Expenses Payment, and/or Administration
12 Expenses Payment shall not constitute a material modification to the Agreement within
13 the meaning of this paragraph.

14 10.4 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
15 Court will retain jurisdiction over the Parties, Action, and Settlement solely for purposes
16 of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
17 administration matters, and (iii) addressing such post-Judgment matters as are permitted
18 by law.

19 10.5 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
20 conditions of this Agreement, specifically including the Class Counsel Fees Payment
21 and Class Counsel Expenses Payment set forth in this Settlement, the Parties, their
22 respective counsel, and all Participating Class Members who did not object to the
23 Settlement as provided in this Agreement, waive all rights to appeal from the Judgment,
24 including all rights to post-judgment and appellate proceedings, the right to file motions
25 to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver
26 of appeal does not include any waiver of the right to oppose such motions, writs or

appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.6 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement, including, but not limited to, the scope of release to be granted by Class Members, this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to attempt to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Settlement Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT.

If any amended Judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and file a proposed amended Judgment.

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be

intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation, except for proceedings to enforce or effectuate the Settlement and this Agreement. The Parties agree that, if approved, certification of the Class is a conditional certification for settlement purposes only, and that if, for any reason, the Court does not grant final approval of the Settlement, or if final approval is not given following the appeal of any order by the Court, or if for any reason the Settlement Effective Date does not occur, the certification of the Class for settlement purposes shall be deemed null and void without further action by the Court or any of the Parties, each Party shall retain all of their respective rights and shall be returned to their relative legal positions as they existed prior to execution of this Agreement, and neither this Agreement, nor any of its accompanying exhibits or any orders entered by the Court in connection with this Agreement shall be admissible or used for any purpose in this Action or any other legal proceeding, except for the enforcement of same.

12.2 Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person,

corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) to counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information.

12.2.1 Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement, except to respond only that "the matter was resolved" or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement, together with its attached exhibits, shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all

appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement, including any amendments to this Agreement.

12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

12.8 No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be

governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.

12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

12.13 Confidentiality. To the extent permitted by law, all agreements made and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court.

12.14.1 Not later than ninety (90) days after the date the Court discharges the Administrator's obligation to provide a declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

1 12.15 Recitals. The representations, covenants, and recitations set forth in the Recitals section
2 of this Agreement are material to this Agreement and are hereby incorporated into and
3 made a part of this Agreement as though they were fully set forth herein.

4 12.16 Headings. The descriptive heading of any section or paragraph of this Agreement is
5 inserted for convenience of reference only and does not constitute a part of this
6 Agreement.

7 12.17 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
8 be to calendar days. In the event any date or deadline set forth in this Agreement falls
9 on a weekend or federal legal holiday, such date or deadline shall be on the first business
10 day thereafter.

11 12.18 Notice. All notices, demands or other communications between the Parties in connection
12 with this Agreement will be in writing and deemed to have been duly given as of the
13 third business day after mailing by United States mail, or the day sent by email or
14 messenger, addressed as follows:

15
16 To Plaintiffs:

17 MOON LAW GROUP, PC
18 Kane Moon
19 Lilit Ter-Astvatsatryan
20 1055 West Seventh Street, Suite 1880
21 Los Angeles, California 90017
22 Telephone: (213) 232-3128

23 To Defendant:

24 PHILLIPS, SPALLAS & ANGSTADT LLP
25 Gregory L. Spallas (SBN 129306)
26 560 Mission Street, Suite 1010
27 San Francisco, CA 94105
28 Telephone: 415-278-9400

1 12.19 Execution in Counterparts. This Agreement may be executed in one or more
2 counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes

of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.20 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that, pursuant to California Code of Civil Procedure section 583.330, to extend the date to bring a case to trial under California Code of Civil Procedure section 583.310 for the entire period of this settlement process.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Agreement between Plaintiffs and Defendant as of the date(s) set forth below:

(Signature Page Follows)

Plaintiffs & Class Representatives:

Dated: 1/11/2024

By:

DocuSigned by:



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Marcos Segura

Dated: 1/19/2024

By:

DocuSigned by:



4EC7527D3A4A443...

Miguel Segura

Plaintiffs' Counsel:

Dated: 1/19/2024

MOON LAW GROUP, PC

By:



Kane Moon

Lilit Ter-Astvatsatryan

Attorneys for Plaintiffs Marcos Segura and

Miguel Segura

Defendant:

Dated:

E.B. STONE & SON, INC.

By:

Print Name

Signature

Title

Defendant's Counsel:

Dated:

PHILLIPS, SPALLAS & ANGSTADT LLP

By:

Gregory L. Spallas

Attorneys for Defendant E.B. Stone & Son,
Inc.

1 **Plaintiffs & Class Representatives:**

2 Dated:

By: _____

Marcos Segura

3
4 Dated:

By: _____

Miguel Segura

5
6 **Plaintiffs' Counsel:**

7 Dated:

MOON LAW GROUP, PC

8 By: _____

Kane Moon

Lilit Ter-Astvatsatryan

Attorneys for Plaintiffs Marcos Segura and
Miguel Segura

9
10
11
12 **Defendant:**

13 Dated:

1/11/2024

E.B. STONE & SON, INC.

14 By: Brad Crandall Jr.

Print Name

15
16 Brad Crandall, Jr.

Signature

17
18 C. E. O.

Title

19
20
21 **Defendant's Counsel:**

22 Dated:

1/11/2024

PHILLIPS, SPALLAS & ANGSTADT LLP

23
24 By: Gregory L. Spallas

Gregory L. Spallas

25 Attorneys for Defendant E.B. Stone & Son,
26 Inc.

EXHIBIT A

NOTICE OF CLASS AND PAGA ACTION SETTLEMENT

Marcos Segura., et al. v. E.B. Stone & Son, Inc.
Superior Court of the State of California, County of Solano
Case Number FCS056951

PLEASE READ THIS NOTICE

The above class and representative action (“Action”) was filed by Plaintiffs Marcos Segura and Miguel Segura (“Plaintiffs”) against Defendant E.B. Stone & Son, Inc. (“Defendant”). In the Action, Plaintiffs allege Defendant failed to properly compensate Class Members for all regular and overtime hours worked, failed to provide Class Members with compliant meal and/or rest periods or compensation in lieu thereof, failed to reimburse Class Members for necessary business expenses, failed to provide Class Members with accurate itemized wage statements, failed to timely pay Class Members all wages owed during employment and/or upon termination, violated California Business and Professions Code sections 17200, *et. seq.*, and/or owes civil penalties to the Labor and Workforce Development Agency (“LWDA”) and Aggrieved Employees under the Private Attorneys General Act, California Labor Code sections 2698, *et. seq.* (“PAGA”). Defendant denies these allegations and contends it complied with all applicable laws.

A Joint Stipulation of Class and PAGA Action Settlement Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”) has been reached in the Action and preliminarily approved by the Court. You have been identified by Defendant’s records as a Class Member. Therefore, you are subject to the terms of the Settlement. Please read this notice carefully, as it may affect your legal rights.

“Class” or “Class Member(s)” all persons who worked for Defendant in California as hourly, nonexempt non-driver employees from August 10, 2017, through January 1, 2024.] (“Class Period”).

“Aggrieved Employee(s)” means all persons who worked for Defendant in California as hourly, nonexempt non-driver employees from August 10, 2020, through January 1, 2024. (“PAGA Period”).

YOUR LEGAL RIGHTS AND OPTIONS WITH RESPECT TO THE SETTLEMENT	
Participate in the Settlement	If you want to participate in the Settlement, remain in the Class, and receive your Individual Class Payment and, <i>if eligible</i> , Individual PAGA Payment, <u>then you do not need to do anything.</u>
Exclude Yourself From the Settlement	If you do not want to participate in the Settlement or remain in the Class, <u>then you should follow the instructions in Section 6.</u> If you exclude yourself from the Settlement, you <i>will not</i> receive your Individual Class Payment and you will not release the Released Claims against the Released Parties (defined in Section 4 below). However, if you exclude yourself from the Settlement and you are an Aggrieved Employee, you <i>will</i> receive your Individual PAGA Payment and release the Released PAGA Claims against the Released Parties.
Object to the Settlement	If you want to object to the Settlement but remain in the Class, <u>then you should follow the instructions in Section 7.</u> If you object, you will still be bound by the terms of the Settlement, if approved by the Court.

1. WHY DID I GET THIS NOTICE?

You have received this Notice because Defendant's records reflect that you are a Class Member or Aggrieved Employee, as defined above. This Notice provides you with information about (1) the monetary terms of the Settlement, (2) your estimated Individual Class Payment, provided you are a "Participating Class Member" (*i.e.*, a Class Member who does not request to be excluded from the Settlement), (3) your estimated Individual PAGA Payment, provided you are an "Aggrieved Employee," (4) the terms of the Settlement, including the claims that are being released, (5) how to participate in, exclude yourself from, or object to the Settlement, and (6) where to find additional information regarding the Action and Settlement.

2. WHAT IS THIS CASE ABOUT?

Plaintiffs Marcos Segura and Miguel Segura filed a Class Action Complaint against Defendant E.B. Stone & Son, Inc., on August 10, 2021, which commenced the lawsuit entitled *Marcos Segura, et al. v. E.B. Stone & Son, Inc.*, Superior Court of the State of California, County of Solano, Case Number FCS056951. Plaintiffs then filed a First Amended Class and Representative Action Complaint on October 20, 2021.

The Operative Complaint alleges that Defendant: (1) failed to pay minimum wages for all hours worked; (2) failed to pay overtime compensation for all overtime hours worked and/or at the correct rate of pay; (3) failed to provide compliant meal periods or compensation in lieu thereof; (4) failed to provide compliant rest breaks or compensation in lieu thereof; (5) failed to indemnify necessary business expenses; (6) failed to timely pay all compensation due upon termination or resignation; (7) failed to provide accurate itemized wage statements; (8) engaged in unfair business practices in violation of Business and Professions Code sections 17200, *et seq.*; and/or (9) owes civil penalties under PAGA.

Defendant denies any liability or wrongdoing of any kind. Defendant contends, among other things, that (i) they complied at all times with the California Labor Code, all Industrial Welfare Commission Wage Orders, and the Business and Professions Code; (ii) employees were correctly and timely paid all wages due and owing; (iii) meal periods and rest breaks were provided as required by applicable law; and (iv) employees were reimbursed for all necessary business expenses incurred.

The Court has not ruled on the merits of the claims alleged in the Operative Complaint. By preliminarily approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case on the merits. Rather, the Court has determined only that there is sufficient evidence to determine, on a preliminary basis, that the proposed Settlement is fair, adequate, and reasonable and that any final determination of those issues will be made at the Final Approval Hearing. Defendant reserves the right, if for any reason the Settlement fails, to contest any factual or legal allegations, including to contest whether the Action should proceed as a class or representative action.

3. THE MONETARY TERMS OF THE SETTLEMENT AND CALCULATION OF YOUR INDIVIDUAL CLASS PAYMENT AND INDIVIDUAL PAGA PAYMENT

Without admitting any liability or wrongdoing, and to avoid the business disruptions caused by litigating these claims, Defendant has agreed to pay a Gross Settlement Amount of \$656,250.00 to settle the Action. The following amounts will be paid from the Gross Settlement Amount:

- An Administrator Expenses Payment not to exceed \$7,000.00, for reimbursement of the Administrator's reasonable fees and expenses;
- A Class Representative Service Payment not to exceed \$7,500.00, for each Plaintiff's services as Class Representative and General Release under the Settlement;

- PAGA Penalties in the amount of \$50,000.00 to the LWDA (75%) and Aggrieved Employees (25%), for the payment of civil penalties under PAGA;
- A Class Counsel Litigation Expenses Payment not to exceed \$20,000.00 to Class Counsel, for reimbursement of the reasonable attorneys' expenses incurred to prosecute the Action; and
- A Class Counsel Fees Payment not to exceed \$218,729.00 to Class Counsel, for reimbursement of the reasonable attorneys' fees incurred to prosecute the Action.

The amount remaining from the Gross Settlement Amount after the above deductions is called the "Net Settlement Amount." The Net Settlement Amount will be allocated to all Participating Class Members on a *pro rata* basis, based on their number of Workweeks. Each such payment is an "Individual Class Payment" and will be calculated as follows:

1. The Administrator will determine the number of Workweeks worked by each Participating Class Member during the Class Period ("Workweeks") based on Defendant's business records;
2. The Administrator will determine the value of a single Workweek by dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members; and
3. Each Participating Class Member shall receive an Individual Class Payment equal to his or her Workweeks multiplied by the value of a single Workweek.

You have been credited with [REDACTED] Workweeks based on Defendant's business records of your employment. Based on these Workweeks, your Individual Class Payment, prior to any applicable withholdings, is estimated to be \$ [REDACTED].

Individual PAGA Payment: A total of \$50,000.00 of the Gross Settlement Amount has been allocated to PAGA Penalties. Of this amount, 75% (i.e., \$37,500.00) will be paid to California's LWDA ("LWDA PAGA Payment"), and 25% (i.e., \$12,500.00) ("Individual PAGA Payment") will be paid on a *pro rata* basis to Aggrieved Employees. Each such payment is an "Individual PAGA Payment" and will be calculated as follows:

1. The Administrator will determine the number of pay periods worked by each Aggrieved Employee during the PAGA Period ("PAGA Pay Periods") based on Defendant's business records;
2. The Administrator will determine the value of a single PAGA Pay Period by dividing the Individual PAGA Payment by the total number of PAGA Pay Periods worked by all Aggrieved Employees; and
3. Each Aggrieved Employee shall receive an Individual PAGA Payment equal to his or her PAGA Pay Periods multiplied by the value of a single PAGA Pay Period.

You have been credited with [REDACTED] PAGA Pay Periods based on Defendant's business records of your employment. Based on these PAGA Pay Periods, your Individual PAGA Payment is estimated to be \$ [REDACTED].

If you dispute the above information, you may submit a written dispute to the number of Workweeks and/or PAGA Pay Periods allocated to you ("Dispute") to the Administrator. Your Dispute must (1) contain your name, address, and telephone number and the case name and number of the action (i.e., *Marcos Segura, et al. v. E.B. Stone & Son, Inc., Superior Court of the State of California, County of Solano, Case Number FCS056951*); (2) be signed by you or your authorized representative; (3) be postmarked or fax stamped on or before [Response Deadline] and returned to the Administrator at the address, e-mail address, or fax number listed below; (4) clearly state the number of Workweeks and/or PAGA Pay Periods you believe is correct; and (5) attach any documentary evidence you have to prove the number of contended Workweeks and/or PAGA Pay Periods.

[Administrator]
[contact info including e-mail address]

Twenty percent (20%) of each Individual Class Payment will be allocated to wages and subject to all applicable employee state and federal tax withholdings; and eighty percent (80%) of each Individual Class Payment will be considered penalties, liquidated damages, interest and any other non-wage related payments. The amount allocated as wages will be reported on an IRS form W-2, and the remaining amount allocated as penalties, liquidated damages, interest and other non-wage payments will be reported on an IRS form 1099. One hundred percent (100%) of each Individual PAGA Payment will be allocated as penalties and reported on an IRS form 1099.

In addition to the Gross Settlement Amount, Defendant will pay all employer payroll taxes and contributions in connection with the portion of the Settlement allocated towards wages. Class Members are responsible for paying taxes on other amounts received. This Notice is not tax advice, and you should consult your tax advisor if you have any questions. Checks will be valid and negotiable for one hundred and eighty (180) days. After that, checks will become void, and a stop payment will be placed on the uncashed checks. Settlement checks that are not cashed within one hundred and eighty (180) days of mailing, or are returned to the Administrator, will be cancelled, and the Administrator shall send the funds associated with uncashed checks to Legal Aid at Work as the approved *cy pres* recipient. **Class Members will be bound by the Settlement even if they do not cash their settlement checks.**

4. WHAT CLAIMS AM I RELEASING AS A CLASS MEMBER UNDER THE SETTLEMENT?

If and when the Court grants final approval of the Settlement and payment made by Defendant of the Gross Settlement Amount as of the Effective Date (as defined in the Agreement), all Class Members who do not opt out of the Settlement (*i.e.*, Participating Class Members) do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all Released Class Claims against any and all Released Parties.

“Released Parties” means Defendant, and each of their former, present, and future owners, parents, and subsidiaries, and all of their current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessor, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

“Released Class Claims” means the Release of Claims by Participating Class Members on behalf of themselves and their respective former and present spouses, family members, representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint during the Class Period, including, *e.g.*, any and all claims arising under California Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198, 2802 and the applicable Industrial Welfare Commission Wage Orders based on any alleged failure to pay minimum wage; failure to pay overtime compensation; failure to pay paid time off wages; failure to provide meal periods; failure to authorize and permit rest periods; failure to indemnify necessary business expenses; failure to timely pay final wages; failure to timely pay wages during employment; failure to provide accurate wage statements; failure to keep adequate records; and unfair business practices arising under California Business and Professions Code section 17200, *et seq.* Excluded from this portion of the release are claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the Plaintiffs’ PAGA Notice during the PAGA Period. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

5. WHAT CLAIMS AM I RELEASING AS AN AGGRIEVED EMPLOYEE UNDER THE SETTLEMENT?

“Released PAGA Claims” means the Limited Release of Claims by Aggrieved Employees on behalf of themselves and their respective former and present spouses, family members, representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and/or the Plaintiff’s PAGA Notice during the PAGA Period, including any claim for PAGA penalties based on alleged violations of California Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198, 2802 and the applicable Industrial Welfare Commission Wage Orders based on any alleged failure to pay minimum wage; failure to pay overtime compensation; failure to pay paid time off wages; failure to provide meal periods; failure to authorize and permit rest periods; failure to indemnify necessary business expenses; failure to timely pay final wages; failure to timely pay wages during employment; failure to provide accurate wage statements; and/or failure to keep adequate records.

AGGRIEVED EMPLOYEES CANNOT OPT-OUT OF THE PAGA SETTLEMENT OR THE RELEASE OF RELEASED PAGA CLAIMS, AND THEY WILL RECEIVE AN INDIVIDUAL PAGA PAYMENT EVEN IF THEY OPT-OUT OF THE CLASS SETTLEMENT.

6. WHAT IF I DO NOT WANT TO PARTICIPATE IN THE CLASS SETTLEMENT?

You have the right to request exclusion from the Settlement as a Class Member and with regards to the settlement of Released Class Claims, but you are not able to exclude yourself as an Aggrieved Employee or with regards to the Released PAGA Claims. To exclude yourself from the release of Released Class Claims, you should submit a written request for exclusion to the Settlement Administrator (“Request for Exclusion”) at the address, e-mail address, or fax number listed in Section 3 of this Notice, above.

No later than [Response Deadline], Class Members who wish to exclude themselves from the Class Settlement must fax, email, or mail the Administrator a signed written Request for Exclusion. A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and includes the Class Member’s name, the last four digits of social security number, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the [Response Deadline]
[Response Deadline]

It is your responsibility to ensure that the Administrator timely receives your request to be excluded from the Settlement. Unless you timely request to be excluded from the Settlement, you will be bound by the judgment upon final approval. Class Members who request to be excluded from the Settlement will NOT receive their Individual Class Payment and will not release any of the Released Class Claims. However, Class Members who are Aggrieved Employees will receive their Individual PAGA Payment and will release the Released PAGA Claims regardless of whether they submit a request to be excluded from the Settlement.

7. WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

Any Participating Class Member may object to the Settlement or to any settlement term. If you wish to object, you may submit your objection in writing to the Administrator (“Objection”) at the specified address, e-mail address, or fax number listed in Section 3 of this Notice, above. A valid and timely Objection should (1) contain the name, address, and telephone number of the Participating Class Member objecting and the case name and

number of the Action (i.e. *Marcos Segura, et al. v. E.B. Stone & Son, Inc.*, Superior Court of the State of California, County of Solano, Case Number FCS056951); (2) be signed by the Participating Class Member; (3) be postmarked or fax stamped on or before [Response Deadline] and returned to the Settlement Administrator at the specified address or fax number listed in Section 3 of this Notice, above; and (4) give the legal and factual basis for their objection.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

Filing an objection will **not** exclude you from the Settlement. If the Court grants final approval of the Settlement, you will still receive an Individual Class Payment and you will be barred from pursuing the Released Class Claims.

8. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Final Approval Hearing is scheduled to take place on _____, at _____ a.m. in the Superior Court of the State of California, County of Solano, Department __, located at 580 Texas Street, Fairfield, California 94533.

9. WHO ARE THE ATTORNEYS?

<u>Attorneys for Plaintiffs and the Class are:</u>	<u>Attorneys for Defendant are:</u>
Kane Moon Lilit Ter-Astvatsatryan MOON LAW GROUP, PC 1055 West Seventh Street, Suite 1880 Los Angeles, California 90017 Telephone: (213) 232-3128	Gregory L. Spallas PHILLIPS, SPALLAS & ANGSTADT LLP 560 Mission Street, Suite 1010 San Francisco, CA 94105 Telephone: 415-278-9400

The Court has decided that the Attorneys for Plaintiffs and the Class are qualified to represent the Participating Class Members. Other than the Class Counsel Fees Payment and Class Counsel Expenses Payment approved by the Court, to be paid out of the Gross Settlement Amount, you will not be charged for their services.

10. SHOULD I GET MY OWN LAWYER?

You do not need to get your own lawyer. If you want your own lawyer to speak for you or appear in Court, you have the right to hire one, but you will have to pay for that lawyer yourself.

11. FURTHER INFORMATION

The foregoing is only a summary of the Settlement. For the precise terms and conditions of the Settlement and other important case documents, please see the settlement agreement available at www._____.com, by contacting Class Counsel at the address or telephone number provided in Section 9, above, or by visiting the office of the Clerk of the Superior Court of the State of California, County of Solano, Department __, located at 580 Texas Street, Fairfield, California 94533, or the Court's website: <https://portal.solano.courts.ca.gov/>.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.