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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA CLARA

JOSHUA ALVAREZ-KING, individually,  
and on behalf of all others similarly situated,

Plaintiff,

vs.

BILL BROWN CONSTRUCTION  
COMPANY, a California corporation; and  
DOES 1 through 10, inclusive,

Defendants.

Case No.: 21CV386656

Assigned For All Purposes to the Honorable  
Theodore C. Zayner, Department 19

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

Action Filed: September 13, 2021  
FAC Filed: December 14, 2021  
Trial date: Not yet set

## JOINT STIPULATION OF CLASS ACTION AND PAGA ACTION SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Action Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Joshua Alvarez-King (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and Defendant Bill Brown Construction Company (“Defendant”) (Defendant and Plaintiff are collectively referred to as the “Parties”).

### DEFINITIONS

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

1. “Action” means the action entitled *Joshua Alvarez-King, et al. v. Bill Brown Construction Company*, Case No. 21CV386656, Santa Clara Superior Court.

2. “Plaintiff” or “Class Representative” means Plaintiff Joshua Alvarez-King.

3. “Defendant” means Defendant Bill Brown Construction Company.

4. “Qualified Settlement Fund” or “QSF” means fund within the meaning of Treasury Regulation section 1.468B-1, 26 C.F.R. § 1.468B-1 et seq., which is established by the Settlement Administrator for the benefit of Class Members, PAGA Class Members, Plaintiff and Class Counsel.

5. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and approved by the Court for Plaintiff’s Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Plaintiff’s Counsel in the Action, including, but not limited to, costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the Settlement, administering the Settlement, and expenses for any experts. Plaintiff’s Counsel will request attorneys’ fees not in excess of \$199,980.00 (comprising thirty-three and one-third percent (33 1/3%) of the Gross Settlement Amount). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any costs and expenses associated with Plaintiff’s Counsel’s litigation and settlement of the Action, not to exceed \$25,000, subject to the Court’s approval. Defendant has agreed not to oppose Plaintiff’s Counsel’s request for fees and reimbursement of costs and expenses as set forth above.

6. “Settlement Administrator” means Phoenix Class Action Administration Solutions, or “Phoenix”, a third-party class action settlement administrator agreed to by the Parties and approved by the Court

for the purposes of administering this settlement. The Parties each represent that they do not have any financial interest in the Settlement Administrator that could create a conflict of interest.

7. “Settlement Administration Costs” means the costs payable from the Class Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, calculating estimated amounts per Class Member, tax reporting, distributing the Class Settlement Amount, and providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement, and as requested by the Parties. The Settlement Administration Costs will be paid from the Class Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Settlement Administrator as being the maximum costs necessary to administer the settlement. The Settlement Administration Costs are currently estimated to be no more than Seven Thousand Nine Hundred Fifty Dollars and Zero Cents (\$7,950.00). To the extent actual Settlement Administrations Costs are greater than Seven Thousand Nine Hundred Fifty Dollars and Zero Cents (\$7,950.00), such excess amount will be deducted from the Class Settlement Amount.

8. “Class Counsel” means Moon Law Group, PC.

9. “Defendant’s Counsel” means Costanzo Law Firm, APC.

10. “Class List” means a complete list of all Class Members that Defendant will diligently and in good faith compile from their records and provide to the Settlement Administrator within fourteen (14) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include each Class Member’s full name; most recent mailing address and telephone number; Social Security number; and the Workweeks worked by each Class Member during the Class Period (“Individual Workweeks”), the number of PAGA Pay Periods for each PAGA Class Member, and any other information the Parties agree is needed to calculate settlement payments.

11. “Class Period” means from September 13, 2017 to August 8, 2023.

12. “PAGA Class Period” means September 13, 2020 to August 8, 2023.

13. “Class Member(s)” or “Settlement Class” means all persons who worked for Defendant in California as an hourly paid, non-exempt employee at any time between September 13, 2017 to August 8, 2023.

14. “PAGA Class Member(s)” means all persons who worked for Defendant in California as an hourly paid, non-exempt employee at any time between September 13, 2020 to August 8, 2023.

15. “Class Representative Enhancement Payment” means the amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for his general release of claims. Subject to the Court granting final approval of this Settlement Agreement and subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of a Class Representative Enhancement Payment of Ten Thousand Dollars and Zero Cents (\$10,000.00).

16. “Gross Settlement Amount” and/or “Class Settlement Amount” means the maximum settlement amount of Six Hundred Thousand Dollars and Zero Cents (\$600,000.00) to be paid by Defendant in full satisfaction of all claims arising from the Action, which includes all Individual Settlement Payments to Participating Class Members, the Class Representative Enhancement Payment to Plaintiff, Settlement Administration Costs to the Settlement Administrator, the Labor and Workforce Development Agency Payment, and the Attorneys’ Fees and Costs. Defendant will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions.

17. “Effective Date” means the day the Court enters an order granting final approval of the Joint Stipulation of Class Action and PAGA Action Settlement and Release and the funding of the Class Settlement Amount in the Qualified Settlement Fund by Defendant.

18. “Final Approval” means the Court entering an order granting final approval of the Settlement Agreement.

19. “Final Approval Order” means the order granting Final Approval of Class Action and PAGA Action Settlement and Judgement entered by the Court.

20. “Operative Complaint” means the First Amended Complaint, filed on December 14, 2021, in this Action.

21. “Individual Settlement Payment” means each Class Member’s share of the Net Settlement Amount, to be distributed to the Class Members who do not opt out.

22. “Labor and Workforce Development Agency Payment” means the amount that the Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in connection with the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”). The Parties have agreed that Fifty Thousand Dollars and Zero Cents (\$50,000.00) of the Class Settlement Amount will be allocated to the resolution of any Class Members’ claims arising under PAGA. Pursuant to PAGA, Seventy

Five Percent (75%), or \$37,500.00 of the Labor and Workforce Development Agency Payment will be paid to the LWDA, and Twenty Five Percent (25%), or \$12,500.00 of the LWDA Payment will be included in the Net Settlement Amount for Settlement Class Members working within the PAGA Class Period.

23. “Net Settlement Amount” means the portion of the Class Settlement Amount remaining after deduction of the approved Class Representative Enhancement Payment, Settlement Administration Costs, Labor and Workforce Development Agency Payment, and the Attorneys’ Fees and Costs. The Net Settlement Amount will be distributed to Participating Class Members.

24. “Notice of Class Action Settlement” means the document, substantially in the form attached as Exhibit A, that will be mailed to Class Members’ last known addresses, and which will provide Class Members with information regarding the Action and information regarding the settlement of the Action.

25. “Notice of Objection” means a Class Member’s valid and timely written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector’s full name, signature, address, and telephone number, (b) a written statement of all grounds for the objection accompanied by legal support, if any, for such objection; and (c) copies of any papers, briefs, or other documents upon which the objection is based. Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector’s own counsel, at his or her own expense and orally object to the Settlement.

26. “Participating Class Members” means all Class Members who do not submit valid and timely Requests for Exclusion.

27. “Preliminary Approval” means the Court order granting preliminary approval of the Settlement Agreement.

28. “Released Claims” means all claims, rights, demands, liabilities, and causes of action, that were or could have been pleaded based on, arising from, or related to, the factual allegations set forth in the Operative Complaint and in the September 11, 2021 Notice of Labor Code Violations and PAGA Penalties sent to the LWDA and Defendant, including: (i) all claims for unpaid minimum and straight time wages; (ii) all claims for unpaid overtime; (iii) all claims for meal and rest break violations; (iv) all claims for unreimbursed business expenses; (v) all claims for the failure to timely pay wages upon termination; (vi) all claims for failure to timely pay wages during employment; (vii) all claims for wage statement violations; (viii) all claims that could arise

1 under Business & Professions Code §§ 17200, *et seq.* The Released Claims include, but are not limited to,  
2 claims under California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 512, 1194, 1194.2, 1197, 1198, 2699,  
3 *et. sq.*, 2802, and California Business & Professions Code §§ 17200, *et. seq.*

4 29. “Released Parties” means Defendant, their officers and directors, and any of their former and  
5 present parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors,  
6 and assigns, as well as all past and present officers, directors, employees, partners, shareholders and agents,  
7 attorneys, insurers, and any other successors, assigns, or legal representatives, if any.

8 30. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a  
9 request to be excluded from the settlement. The Request for Exclusion must: (a) be signed by the Class  
10 Member; (b) contain the name, address, telephone number and the last four digits of the Social Security Number  
11 of the Class Member requesting exclusion; (c) clearly state that the Class Member does not wish to be included  
12 in the settlement; (d) be returned by fax or mail to the Settlement Administrator at the specified address and/or  
13 facsimile number; and (e) be faxed or postmarked on or before the Response Deadline. The date of the fax or  
14 postmark on the return mailing envelope will be the exclusive means to determine whether a Request for  
15 Exclusion has been timely submitted. A Class Member who does not request exclusion from the settlement  
16 will be deemed a Class Member and will be bound by all terms of the Settlement Agreement if the settlement  
17 is granted final approval by the Court.

18 31. “Response Deadline” means the deadline by which Class Members must postmark or fax to  
19 the Settlement Administrator valid Requests for Exclusion or postmark Notices of Objection to the Settlement.  
20 The Response Deadline will be Sixty (60) calendar days from the initial mailing of the Notice Packet by the  
21 Settlement Administrator, unless the 60th day falls on a Sunday or Federal holiday, in which case the Response  
22 Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline  
23 for Requests for Exclusion or objections will be extended fifteen (15) calendar days for any Class Member who  
24 is re-mailed a Notice Packet by the Settlement Administrator, unless the 15th day falls on a Sunday or court  
25 holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service  
26 is open. The Response Deadline may also be extended by express agreement between Class Counsel and  
27 Defendant. Under no circumstances, however, will the Settlement Administrator have the authority to  
28 unilaterally extend the deadline for Class Members to submit a Request for Exclusion or objection to the

1 settlement.

2 32. "Workweeks" means the number of weeks each Class Member worked during the Settlement  
3 Class Period. As of the date of the mediation of June 8, 2023, there are currently approximately 16,000  
4 workweeks during the class period. If the total number of workweeks exceeds 17,600 workweeks, Defendant  
5 has the unilateral right to either (1) a pro-rata increase in the Gross Settlement Amount equal to the percentage  
6 increase in workweeks above 17,600 (i.e., if the total workweeks increases by 12%, then a 2% increase to the  
7 Gross Settlement Amount); or (2) a cut-off of the Class Period to end on the date that total workweeks reaches  
8 17,600.

9 33. "Workweek Value" may be based on either: (1) weeks during which at least one day was  
10 worked; or (2) hire dates and, where applicable, last dates worked or separation dates, re-hire dates, dates of any  
11 periods of leave, and dates of any transition between non-exempt and exempt status.

#### 12 **TERMS OF AGREEMENT**

13 The Plaintiff, on behalf of himself, the Class Members, the PAGA Class Members, and the State of  
14 California, and Defendant, agree as follows:

15 34. Funding of the Class Settlement Amount. Defendant must fund within eighteen (18) months  
16 of the mediation date of June 8, 2023, which is no later than December 9, 2024. Within seven (7) calendar days  
17 of the funding of the Settlement, the Settlement Administrator will issue payments to: (a) Participating Class  
18 Members and PAGA Class Members; (b) the Labor and Workforce Development Agency; (c) Plaintiff; and  
19 (d) Plaintiff's Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved  
20 services performed in connection with the settlement.

21 35. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or  
22 motion by Plaintiff's Counsel for attorneys' fees of not more than \$199,980 (33 1/3%) of Gross Settlement  
23 Amount. The Attorneys' Fees and Costs will also mean and include the additional reimbursement of any costs  
24 and expenses associated with Plaintiff's Counsel's litigation and settlement of the Action, not to exceed  
25 \$25,000, subject to the Court's approval. Defendant has agreed not to oppose Plaintiff's Counsel's request for  
26 fees and reimbursement of costs and expenses as set forth above.

27 36. Class Representative Enhancement Payment. In exchange for a general release, and in  
28 recognition of his effort and work in prosecuting the Action, Defendant agrees not to oppose or impede any

1 application or motion for Class Representative Enhancement Payment of Ten Thousand Five Hundred Dollars  
2 and Zero Cents (\$10,000.00). Plaintiff will be solely and legally responsible to pay any and all applicable taxes  
3 on the payments made pursuant to this paragraph and will indemnify and hold Defendant harmless from any  
4 claim or liability for taxes, penalties, or interest arising as a result of the payments.

5 37. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable  
6 costs of administration of the Settlement and distribution of payments from the Class Settlement Amount,  
7 which are currently estimated to be no more than Seven Thousand Nine Hundred Fifty Dollars and Zero Cents  
8 (\$7,950.00). These costs, which will be paid from the Class Settlement Amount, will include, *inter alia*, the  
9 required tax reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms,  
10 distributing the Notice Packet calculating and distributing the Class Settlement Amount, and providing  
11 necessary reports and declarations.

12 38. Labor and Workforce Development Agency Payment. Subject to Court approval, the Parties  
13 agree that Fifty Thousand Dollars and Zero Cents (\$50,000.00) of the Gross Settlement Amount will be  
14 allocated to the resolution of any Class Members' claims arising under PAGA. Pursuant to PAGA, Seventy  
15 Five Percent (75%), or (\$37,500.00), of the Labor and Workforce Development Agency Payment will be  
16 paid to the LWDA, and Twenty Five Percent (25%), or (\$12,500.00) of the LWDA Payment will be included  
17 in the Net Settlement Amount for PAGA Class Members working within the PAGA Class Period.

18 39. Net Settlement Amount. The Net Settlement Amount will be used to satisfy Individual  
19 Settlement Payments to Participating Class Members from the Settlement Class in accordance with the terms  
20 of this Settlement.

21 40. Individual Settlement Payment Calculations. Individual Settlement Payments will be  
22 calculated and apportioned from the Net Settlement Amount based on the number of Workweeks a Class  
23 Member worked during the Settlement Class Period and the number of PAGA Pay Periods worked during the  
24 PAGA Period. calculations of Individual Settlement Payments will be made as follows:

25 40(a) The Defendant will calculate the total number of weeks worked by each Class  
26 Member ("Individual Workweeks") and the total number of Workweeks worked  
27 by all Class Members ("Class Workweeks") during the Settlement Class Period.

28 40(b) To determine each Class Member's Individual Settlement Payment, the

Settlement Administrator will use the following formula: Individual Settlement Payment = (Individual Workweeks ÷ Total Workweeks of Participating Class Members) × (Net Settlement Amount).

40(c) Each PAGA Class Member who worked during the PAGA Period is eligible to receive from the Net Settlement Amount the proportionate amount of the Labor and Workforce Development Agency Payment based on the number of Pay Periods worked during the PAGA Period.

40(d) If any Class Member requests to be excluded from the settlement these funds shall remain part of the Net Settlement Amount and shall proportionally increase each participating Class Member's final Individual Settlement Payment. A Request for Exclusion does not exclude a PAGA Class Member from the Released PAGA Claims and the PAGA Class Members will receive their portion of the Labor and Workforce Development Agency Payment even if he or she submits a valid Request for Exclusion.

41. Settlement Administration Process. The Parties agree to cooperate in the administration of the settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Settlement Administrator will provide the following services:

41(a) Establish and maintain a Qualified Settlement Fund.

41(b) Calculate the Individual Settlement Payment each Class Member and each PAGA Class Member is eligible to receive.

41(c) Print and mail the Notice Packet.

41(d) Translate the Notice Packet from English to Spanish.

41(e) Establish and maintain a toll-free information telephone support line to assist Class Members who have questions regarding the Notice Packet.

41(f) Conduct additional address searches for mailed Notice Packets that are returned as undeliverable.

41(g) Process Requests for Exclusion, calculate Participating Class Members' Individual Settlement Payment, field inquiries from Class Members, and administer any Requests for Exclusion.

This service will include settlement proceed calculation, printing and issuance of Settlement Payment Checks, and preparation of IRS W2 and 1099 Tax Forms. Basic accounting for and payment of employee tax withholdings will also be included as part of this service.

41(h) Inform Defendant of its employer-side tax liability, if any.

41(i) Provide declarations and/or other information to this Court as requested by the Parties and/or the Court.

41(j) Provide weekly status reports to counsel for the Parties.

41(k) Posting a notice of final judgment online at Settlement Administrator's website.

42. Notice by First-Class U.S. Mail. Within fourteen (14) calendar days after receiving the Class List from Defendant, the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

43. Confirmation of Contact Information in the Class List. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice Packet. 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 and/or Social Security number of the Class Member involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip-trace or by request, will have between the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark a Request for Exclusion, or an objection to the Settlement.

44. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Settlement Class definition; (d) the total number of Workweeks each respective Class Member worked for Defendant during the Settlement Class Period; (e) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which comprise the Settlement Class Period; (g) the deadlines by which the Class Member must postmark or fax Requests for

1 Exclusion or postmark Notices of Objection to the Settlement; (h) the claims to be released, as set forth herein;  
2 and (j) the date for the final approval hearing.

3 45. Disputed Information on Notice Packets. Class Members will have an opportunity to dispute  
4 the information provided in their Notice Packets. To the extent Class Members dispute the number of  
5 Workweeks to which they have been credited or the amount of their Individual Settlement Payment, Class  
6 Members may produce evidence to the Settlement Administrator showing that such information is inaccurate.  
7 Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative.  
8 However, if a Class Member produces evidence to the contrary, the Settlement Administrator will evaluate the  
9 evidence submitted by the Class Member and will make the final decision as to the number of eligible  
10 Workweeks that should be applied and/or the Individual Settlement Payment to which the Class Member may  
11 be entitled. All such disputes are to be resolved not later than fourteen (14) calendar days after the Response  
12 Deadline.

13 46. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the  
14 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement  
15 Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective  
16 submission to advise the Class Member that his or her submission is defective and that the defect must be cured  
17 to render the Request for Exclusion valid. The Class Member will have until the later of (a) the Response  
18 Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark  
19 or fax a revised Request for Exclusion. If a Class Member responds to a cure letter by filing a defective claim,  
20 then the Settlement Administrator will have no further obligation to give notice of a need to cure. If the revised  
21 Request for Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

22 47. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the Settlement  
23 Agreement must sign and postmark or fax a written Request for Exclusion to the Settlement Administrator  
24 within the Response Deadline. The date of the postmark on the return mailing envelope or fax receipt  
25 confirmation will be the exclusive means to determine whether a Request for Exclusion has been timely  
26 submitted. All Requests for Exclusion will be submitted to the Settlement Administrator, who will certify  
27 jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely submitted. The  
28 Request for Exclusion does not apply to claims arising under the Private Attorney General Act (California

1 Labor Code Sections 2698 *et seq*). Class Members who submit valid requests for exclusion will still receive a  
2 check for their share of the PAGA settlement amount.

3 48. Defendant's Right to Rescind. If 5% or more of the Class Members elect not to participate in  
4 the Settlement, Defendant may, at its election, rescind the Settlement Agreement and all actions taken in  
5 furtherance of it will be thereby null and void. Defendant must exercise this right of rescission, in writing, to  
6 Class Counsel within 14 calendar days after the Settlement Administrator notifies the Parties of the total number  
7 of opt-outs. If Defendant exercises its right to rescind, then Defendant will be responsible for all Settlement  
8 Administration Costs incurred to the date of rescission.

9 49. Release by Participating Class Members. Any Class Member who does not affirmatively opt-  
10 out of the Settlement Agreement by submitting a timely and valid Request for Exclusion will be bound by all  
11 of its terms, including those pertaining to the Released Claims, as well as any Judgment that may be entered by  
12 the Court if it grants final approval to the Settlement. All PAGA Class Members, regardless of whether they  
13 submit timely and valid Requests for Exclusion from the Settlement Class, will release the PAGA Released  
14 Claims during the PAGA Period. The State of California will also release the PAGA Released Claims.

15 50. Objection Procedures. To object to the Settlement Agreement, a Class Member must postmark  
16 a valid Notice of Objection to the Settlement Administrator on or before the Response Deadline. The Notice  
17 of Objection must be signed by the Class Member and contain all information required by this Settlement  
18 Agreement. The postmark date will be deemed the exclusive means for determining that the Notice of  
19 Objection is timely. Class Members who fail to object in the specific and technical manner specified above  
20 will be deemed to have waived all objections to the Settlement and will be foreclosed from making any  
21 objections and seeking any adjudication or review, whether by appeal or otherwise, to the Settlement  
22 Agreement. Class Members who postmark timely Notices of Objection will have a right to appear at the Final  
23 Approval Hearing in order to have their objections heard by the Court. At no time will any of the Parties or  
24 their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the  
25 Settlement Agreement or appeal from the Order and Judgment. Class Counsel will not represent any Class  
26 Members with respect to any such objections to this Settlement.

27 51. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement  
28 Administrator will provide Defendant's counsel and Class Counsel a weekly report which certifies: (a) the

1 number of Participating Class Members from the Settlement Class who have submitted valid Requests for  
2 Exclusion; (b) the Net Settlement Amount claimed by Participating Class Members; and (c) whether any Class  
3 Member has submitted a challenge to any information contained in their Notice Packet. Additionally, the  
4 Settlement Administrator will provide to counsel for both Parties any updated reports regarding the  
5 administration of the Settlement Agreement as needed or requested.

6 52. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to  
7 Participating Class Members will be negotiable for at least one hundred eighty (180) calendar days. Those  
8 funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-  
9 cashed for more than one hundred eighty (180) calendar days after issuance, plus any interest that accrued  
10 thereon, will be tendered in accordance with California Code of Civil Procedure §384(b). The Settlement  
11 Administrator will transfer the uncashed checks to the Unclaimed Property Fund of the State Controller's office  
12 in the name of the Class Member and PAGA Class Member.

13 53. Certification of Completion. Upon completion of administration of the Settlement, the  
14 Settlement Administrator will provide a written declaration under oath to certify such completion to the Court  
15 and counsel for all Parties.

16 54. Tax Treatment of Individual Settlement Payments. All Individual Settlement Payments will  
17 be allocated as follows: twenty percent (20%) to settlement of wage claims and eighty (80%) to settlement of  
18 claims for interest and penalties. The portion allocated to wages will be reported on an IRS Form W-2 and the  
19 portions allocated to non-wages will be reported on an IRS Form-1099 by the Settlement Administrator.

20 55. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will  
21 be responsible for issuing to Plaintiff, Participating Class Members, and Plaintiff' Counsel any W-2, 1099, or  
22 other tax forms as may be required by law for all amounts paid pursuant to this Settlement. The Settlement  
23 Administrator will also be responsible for forwarding all payroll taxes and penalties to the appropriate  
24 government authorities.

25 56. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of the  
26 payments called for hereunder, and Plaintiff and Participating Class Members are not relying on any statement,  
27 representation, or calculation by Defendant or by the Settlement Administrator in this regard. Plaintiff and  
28 Participating Class Members understand and agree that except for Defendant's payment of the employer's

1 portion of any payroll taxes, they will be solely responsible for the payment of any taxes and penalties assessed  
2 on the payments described herein.

3       57.     Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF  
4 THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT  
5 OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND  
6 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN  
7 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR  
8 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH  
9 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON  
10 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT  
11 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS  
12 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX  
13 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS  
14 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE  
15 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY  
16 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR  
17 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX  
18 PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO  
19 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT  
20 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX  
21 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON  
22 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX  
23 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY  
24 THIS AGREEMENT.

25       58.     No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that they  
26 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber  
27 to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released  
28 and discharged.

59. Limited Release of Claims by Class Members. It is the desire of the Plaintiff, Class Members (except those who exclude themselves from the Settlement), and Defendant to fully, finally, and forever settle, compromise, and discharge the claims asserted in the Operative Complaint. Upon the Final Approval by the Court of this Settlement Agreement, and the full funding of the Gross Settlement Amount in the QSF, and except as to such rights or claims as may be created by this Settlement Agreement, the Class Members shall fully release and discharge the Released Parties from any and all Released Claims for the entire Released Period. This release shall be binding on all Class Members who have not timely submitted a valid and complete Request for Exclusion, including each of their respective attorneys, agents, spouses, executors, representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have no further or other liability or obligation to any Settlement Class Member with respect to the Released Claims, except as expressly provided herein.

60. Limited Release of Claims by PAGA Class Members. It is the desire of the Plaintiff, in his capacity as a representative of PAGA Class Members, and Defendant to fully, finally, and forever settle, compromise, and discharge the claims asserted in the September 11, 2021, Notice of Labor Code Violations and PAGA Penalties sent to the LWDA and the Operative Complaint. Upon the Final Approval by the Court of this Settlement Agreement, and the full funding of the Gross Settlement Amount in the QSF, and except as to such rights or claims as may be created by this Settlement Agreement, Plaintiff, the PAGA Class Members, the LWDA, and the State of California shall fully release and discharge the Released Parties from any and all Released PAGA Claims for the entire Released PAGA Period. This release shall be binding on all PAGA Class Members regardless if they submitted a valid and complete Request for Exclusion.

61. Release of Additional Claims & Rights by Plaintiff. Upon the Effective Date, and as a condition of receiving any portion of his Class Representative Enhancement Payment, Plaintiff will agree to the additional following General Release: In consideration of Defendant's promises and agreements as set forth herein, Plaintiff hereby fully releases the Released Parties from any and all Released Claims and also generally release and discharge the Released Parties from any and all claims, demands, obligations, causes of action, rights, or liabilities of any kind which have been or could have been asserted against the Released Parties arising out of or relating to Plaintiff's employment by Defendant or termination thereof, including but not limited to claims for wages, restitution, penalties, retaliation, defamation, discrimination, harassment or wrongful

1 termination of employment. This release specifically includes any and all claims, demands, obligations and/or  
2 causes of action for damages, restitution, penalties, interest, and attorneys' fees and costs (except provided by  
3 the Settlement Agreement) relating to or in any way connected with the matters referred to herein, whether or  
4 not known or suspected to exist, and whether or not specifically or particularly described herein. Specifically,  
5 Plaintiff waives all rights and benefits afforded by California Civil Code Section 1542, which provides:

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

11 62. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally approve  
12 the Settlement as provided herein; (b) the Court strikes or does not approve any material term of this Settlement  
13 Agreement; or (c) the Settlement does not become final as written and agreed to by the Parties for any other  
14 reason, then this Settlement Agreement, and any documents generated to bring it into effect including the  
15 Memorandum of Understanding, will be null and void, all amounts deposited into the QSF will be returned to  
16 Defendant, and the Parties shall be returned to their original respective positions. Any order or judgment entered  
17 by the Court in furtherance of this Settlement Agreement will likewise be treated as void from the beginning.

18 63. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request  
19 Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order for: (a)  
20 conditional certification of the Settlement Class for settlement purposes only, (b) Preliminary Approval of the  
21 proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing. The  
22 Preliminary Approval Order will provide for the Notice Packet to be sent to all Class Members as specified  
23 herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this Settlement Agreement,  
24 which sets forth the terms of this Settlement, and will include the proposed Notice Packet; *i.e.*, the proposed  
25 Notice of Class Action Settlement, attached as Exhibits A. Class Counsel will be responsible for drafting all  
26 documents necessary to obtain preliminary approval. Any failure by the Court to fully and completely approve  
27 the Settlement Agreement as to all of the Action, or the entry of any Order by another Court with regard to any  
28 of the Action which has the effect of preventing the full and complete approval of the Settlement Agreement as

1 written and agreed to by the Parties, will result in this Settlement Agreement and any Memorandum of  
2 Understanding entered into by the Parties, and all obligations under this Settlement Agreement and any  
3 Memorandum of Understanding being nullified and voided.

4 64. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the deadlines  
5 to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the Court's  
6 permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval  
7 of the Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement Payments;  
8 (b) the Labor and Workforce Development Agency Payment; (c) the Attorneys' Fees and Costs; (d) the Class  
9 Representative Enhancement Payments; and (e) all Settlement Administration Costs. Class Counsel will be  
10 responsible for drafting all documents necessary to obtain Final Approval. Class Counsel will also be  
11 responsible for drafting the attorneys' fees and costs application to be heard at the final approval hearing. With  
12 the exception of a failure to approve the full amount of attorneys' fees and costs or Class Representative  
13 Enhancement Payment requested by Plaintiff, any failure by the Court to fully and completely approve the  
14 Settlement Agreement as to all of the Action, or the entry of any Order by another Court with regard to any of  
15 the Action which has the effect of preventing the full and complete approval of the Settlement Agreement as  
16 written and agreed to by the Parties, will result in this Settlement Agreement and the Memorandum of  
17 Understanding entered into by the Parties, and all obligations under this Settlement Agreement and the  
18 Memorandum of Understanding being nullified and voided.

19 65. Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by the Court or  
20 after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment to the Court for its  
21 approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of  
22 addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement administration  
23 matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this  
24 Settlement.

25 66. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set forth  
26 in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits  
27 to this Settlement are an integral part of the Settlement.

28 67. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the

entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.

68. Amendment or Modification. This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest. Any such instrument must specifically reference this Agreement.

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

70. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

71. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

72. 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 facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

73. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. 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

1 and reasonableness of this Settlement.

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

5 75. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class  
6 certification for purposes of this Settlement only; except, however, that either party may appeal any court order  
7 that materially alters the Settlement Agreement's terms.

8 76. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to class  
9 action certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved, the  
10 stipulation to certification will be void. The Parties further agree that certification for purposes of the Settlement  
11 is not an admission that class action certification is proper under the standards applied to contested certification  
12 motions and that this Settlement Agreement will not be admissible in this or any other proceeding as evidence  
13 that either: (a) a class action should be certified or (b) Defendant is liable to Plaintiff or any Class Member,  
14 other than according to the Settlement's terms.

15 77. Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve the  
16 dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In  
17 entering into this Settlement Agreement, Defendant does not admit, and specifically denies, it has violated any  
18 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any  
19 other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty;  
20 engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to their  
21 employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations  
22 connected with it, shall be construed as an admission or concession by Defendant of any such violations or  
23 failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this  
24 Settlement Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received  
25 as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to  
26 establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state,  
27 local or other applicable law.

28 78. Captions. The captions and section numbers in this Settlement Agreement are inserted for the

1 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of  
2 this Settlement Agreement.

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

6 80. Enforcement Action. In the event that one or more of the Parties institutes any legal action or  
7 other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare  
8 rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from  
9 the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in  
10 connection with any enforcement actions.

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

16 82. Representation By Counsel. The Parties acknowledge that they have been represented by  
17 counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this  
18 Settlement Agreement has been executed with the consent and advice of counsel and reviewed in full. Further,  
19 Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

20 83. All Terms Subject to Final Court Approval. All amounts and procedures described in this  
21 Settlement Agreement herein will be subject to final Court approval.

22 84. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith  
23 and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement  
24 Agreement.

25 85. Confidentiality. Plaintiff, Plaintiff' Counsel, Class Counsel, Defendant and their counsel agree  
26 that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or  
27 have any communication with the press about the fact, amount or terms of the Settlement Agreement prior to  
28 Final Approval. Nothing in this Settlement Agreement shall limit Defendant's ability to fulfill disclosure

obligations reasonably required by law or in furtherance of business purposes, including the fulfillment of obligations stated in this Settlement Agreement. Nothing in this clause shall limit Plaintiff's Counsel's ability to discuss the terms of the settlement with Class Members.

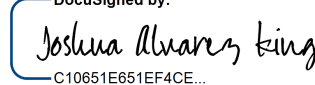
86. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding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

### SIGNATURES

#### READ CAREFULLY BEFORE SIGNING

Dated: 8/7/2023

PLAINTIFF

DocuSigned by:  
  
 C10651E651EF4CE...

Plaintiff JOSHUA ALVAREZ-KING

Dated:

DEFENDANT

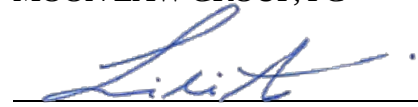
Defendant BILL BROWN  
 CONSTRUCTION COMPANY

Please Print Name of Authorized Signatory

#### APPROVED AS TO FORM

Dated: 8/7/2023

MOON LAW GROUP, PC

  
 KANE MOON  
 LILIT TER-ASTVATSATRYAN

Attorneys for Plaintiff and the Class Members

obligations reasonably required by law or in furtherance of business purposes, including the fulfillment of obligations stated in this Settlement Agreement. Nothing in this clause shall limit Plaintiff's Counsel's ability to discuss the terms of the settlement with Class Members.

86. 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, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

### SIGNATURES

#### READ CAREFULLY BEFORE SIGNING

Dated:

PLAINTIFF

\_\_\_\_\_  
Plaintiff JOSHUA ALVAREZ-KING

Dated: Aug 1, 2023

DEFENDANT

William E Brown  
William E Brown (Aug 1, 2023 18:21 PDT)

\_\_\_\_\_  
Defendant BILL BROWN  
CONSTRUCTION COMPANY  
William E Brown

\_\_\_\_\_  
Please Print Name of Authorized Signatory

#### APPROVED AS TO FORM

Dated:

MOON LAW GROUP, PC

\_\_\_\_\_  
KANE MOON  
LILIT TER-ASTVATSATRYAN

Attorneys for Plaintiff and the Class Members

Dated:

COSTANZO LAW FIRM, APC



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FRANK ZECCOLA

Attorneys for Defendant

# **Exhibit A**

# **NOTICE OF PROPOSED CLASS ACTION AND PAGA SETTLEMENT**

## **SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF SANTA CLARA**

*A court authorized this notice. This is not a solicitation from a lawyer.*

**ATTENTION: IF YOU WORKED AT BILL BROWN CONSTRUCTION COMPANY AS A NON-EXEMPT EMPLOYEE DURING THE PERIOD SEPTEMBER 13, 2017, TO AUGUST 8, 2023, YOU ARE ENTITLED TO A SHARE OF A PROPOSED CLASS ACTION SETTLEMENT.**

**ATTENTION: IF YOU WORKED AT BILL BROWN CONSTRUCTION COMPANY AS A NON-EXEMPT EMPLOYEE DURING THE PERIOD SEPTEMBER 13, 2020, TO AUGUST 8, 2023, YOU ARE ENTITLED TO A SHARE OF A PROPOSED PAGA REPRESENTATIVE SETTLEMENT.**

### **TO UNDERSTAND YOUR RIGHTS, READ THIS NOTICE CAREFULLY.**

- A proposed class and PAGA action settlement (“the Settlement”) has been reached between plaintiff Joshua Alvarez-King. (“Plaintiff”), on behalf of himself and the below-defined Class Members and PAGA Class Members, and Defendant BILL BROWN CONSTRUCTION COMPANY (“Defendant”). The Court has granted preliminary approval of the Settlement in *Joshua Alvarez-King v. Bill Brown Construction Company*, Case Number 21CV386656.
- The Settlement resolves a putative class and representative action alleging that Defendant: (1) failed to pay minimum wage and/or overtime wages for all hours worked; (2) failed to provide reimbursement for business-related expenses; (3) failed to provide proper meal and rest periods; (4) failed to provide accurate itemized wage statements; (5) failed to timely pay final wages; engaged in unfair competition; and (6) violated the Private Attorneys General Act of 2004 (the “Action”). Plaintiff brought these claims for violations of the California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 512, 1194, 1194.2, 1197, 1198, 2699, *et. sq.*, 2802, and California Business & Professions Code §§ 17200, *et. seq.*
- Defendant has denied, and continues to deny, the factual allegations and legal claims asserted in the Action and believes that Plaintiff’s claims have no merit. Defendant does not admit to liability on any of the factual allegations or claims asserted in the Action, or that the Action can or should proceed as a class or representative action.
- After extensive negotiations, the Parties have come to this proposed settlement based upon all known facts and circumstances, including the various risks and uncertainties related to continued litigation.
- The Settlement for the Class Members provides for settlement payments based on the number of work weeks you worked for Defendant as a non-exempt employee, at any time from September 13, 2017, to August 8, 2023.
- The Settlement for the PAGA Class Members provides for settlement payments based on the number of pay periods you worked for Defendant as a non-exempt employee, at any time from September 13, 2020, to August 8, 2023.
- The purpose of this Notice is to provide you with a brief description of the lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in or object to the Settlement. If the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

**Your estimated minimum settlement payment and covered work weeks worked during the relevant period are printed on the enclosed sheet.**

| OVERVIEW OF YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT |                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DO NOTHING</b>                                              | Subject to the Court’s final approval of the Settlement, you will receive a settlement payment at the address where this Notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator). In exchange, you will give up your claims in this case within the scope of the release set forth below. |
| <b>EXCLUDE YOURSELF</b>                                        | If you submit a Request for Exclusion, you will <u>not</u> receive a settlement payment, but you will keep your claims against Defendant. You are not permitted to object to the Settlement if you exclude yourself from the Settlement.                                                                                             |
| <b>OBJECT</b>                                                  | If you wish to object to the Settlement, you must submit a written Notice of Objection and supporting papers to the Settlement Administrator that is postmarked or faxed no later than <b>[+60 days from date of mailing]</b> .                                                                                                      |

- These rights and options, and how to exercise them, are explained in more detail in this notice.
- The Court handling this case still has to decide whether to grant final approval of the Settlement. Settlement payments will only be issued if the Court grants final approval of the Settlement.
- Additional information regarding the Settlement is available through the Settlement Administrator, Class Counsel, or Defendant’s counsel, whose contact information is provided in this notice.

### **BASIC INFORMATION**

#### **1. Why did I get this notice?**

Defendant’s records show that you worked as a non-exempt employee for Defendant at some point from September 13, 2017, to August 8, 2023. This notice explains the Action, the Settlement, and your legal rights.

#### **2. What is the Action about?**

The lawsuit is known as *Joshua Alvarez-King., et al. v. Bill Brown Construction Company*, Case No. 21CV386656, and is pending in the Superior Court of California for the County of Santa Clara, (the “Action”).

The Action involves claims under California’s wage and hour laws. Plaintiff worked for Defendant as a non-exempt employee. He alleges that Defendant violated California law by failing to: properly pay minimum wage and overtime compensation for all hours worked; provide compliant meal and rest periods and pay meal or rest period premiums; failure to reimburse necessary business expenses; failure to provide compliant itemized wage statements; and pay timely final wages upon separation of employment. Plaintiff further claims that Defendant engaged in unfair competition and violated the California Private Attorneys General Act of 2004 (“PAGA”). As a result, Plaintiff alleges that he and the Class Members (defined in response to Question 4 below) are entitled to recover unpaid wages, interest, and statutory and civil penalties.

Defendant denies all of Plaintiff’s claims and denies that it violated the law in any way. The Court has not decided whether there is any merit to Plaintiff’s claims. However, both Plaintiff and Defendant believe that the Settlement is fair, adequate, and reasonable, and that it is in the best interest of the of the Settlement Class members.

### 3. Why is this lawsuit a class action?

In a class action, one or more people called the “Plaintiff” sue on behalf of a group of people who the Plaintiff alleges have similar claims. All people in the group are part of a putative “class” and are called putative “class members.” If the Court “certifies” the putative class (i.e., agrees they all have similar claims), the Court resolves the issues for all class members, except those who exclude themselves from the class. On **[insert date]**, the Hon. Theodore C. Zayner issued an order conditionally certifying the Class *for purposes of settlement only*.

### 4. Who is in the Class?

“Class Members” or the “Settlement Class Members” means all former non-exempt employee who have worked for Defendant in California at any time between September 13, 2017 to August 8, 2023.

“PAGA Class Members” means all former non-exempt employees who have worked for Defendant in California at any time between September 13, 2020 to August 8, 2023.

### 5. Why is there a settlement?

After conducting substantial fact discovery, including but not limited to reviewing policies, payroll records, and time records, both sides agreed to the Settlement to avoid the cost and risk of further litigation. The Settlement does not mean that any law was broken. As stated, Defendant denies all claims asserted in the Action, denies it has violated any laws, and believes it has at all times paid its non-exempt employees correctly and fully complied with all applicable laws. Plaintiff and his lawyers think the Settlement is in the best interests of all Class Members.

## **THE SETTLEMENT BENEFITS—WHAT YOU GET**

### 6. What does the settlement provide?

Under the terms of the Settlement, Defendant agrees to pay a Class Settlement Amount of \$600,000.00. Deducted from this Class Settlement Amount will be sums approved by the Court for attorneys’ fees (not to exceed 33 1/3% of the Gross Settlement Amount, or \$199,980.00); attorneys’ actual costs (not to exceed \$25,000.00); Class Representative Enhancement Payment to the Plaintiff for his service to the Settlement Class (not to exceed \$10,000.00); an amount of \$50,000.00 in satisfaction of claims for alleged PAGA civil penalties (where \$37,500.00 will be paid to the State of California Labor and Workforce Development Agency and \$12,500.00 will be distributed to the PAGA Class Members); and the fees and expenses of the Settlement Administrator, Phoenix Class Action Administrator Solutions, estimated not to exceed \$7,950.00. The Settlement Administrator will distribute the remaining Net Settlement Amount to Settlement Class Members who do not opt out (“Participating Class Members”) pursuant to the formula described below.

Individual Settlement Payment: The Net Settlement Amount will be distributed to Participating Class Members as follows:

Compensable work weeks will comprise all work weeks Participating Class Members worked for Defendant between September 13, 2017, to August 8, 2023. The dollars per compensable workweek (“Work Week Value”) will be calculated by dividing the Net Settlement Amount by the total number of workweeks worked by the Participating Class Members. The Work Week Value will be multiplied by the number of Work Weeks worked as a member of the Settlement Class during the period from September 13, 2017, to August 8, 2023, to determine the distribution for the Participating Class Member. The number of weeks worked will be calculated by Phoenix Class Action Administrator Solutions 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, and dates of any transition between non-exempt and exempt status.

To determine each PAGA Class Member’s individual settlement amount, Phoenix Class Action Administrator Solutions will use the following formula: Individual Settlement Payment = (Individual Pay Period ÷ Total Pay Periods of PAGA Class Members) × (\$12,500.00).

Twenty percent (20%) of the Individual Settlement Award paid to each Participating Class Member shall be reported on an IRS Form W-2 as alleged unpaid wages subject to all applicable tax withholdings. Eighty percent (80%) of the Individual Settlement Award paid to each Participating Class Member shall be reported on an IRS Form 1099 as alleged non-wage penalties and interest not subject to payroll tax withholdings. Each Participating Class Member will be responsible for correctly characterizing the compensation for tax purposes and for payment of any taxes on any amount received. Defendant will be responsible for paying its share of payroll taxes.

Your estimated minimum settlement payment is **[Estimated Payment]** and your covered Work Weeks worked between September 13, 2017, to August 8, 2023, are **[Work Weeks]**. To the extent you dispute the number of Work Weeks, you must make your dispute (“Work Week Dispute”) in writing and send it to the Settlement Administrator via fax or mail. Your Work Week Dispute must be postmarked or faxed no later than **[+60 days from date of mailing]** (the “Response Deadline”) to:

**[Settlement Administrator]**

Your estimated minimum settlement payment is **[Estimated Payment]** and your covered Pay Periods worked between September 13, 2020, to August 8, 2023 are **[Pay Periods]**.

Your Dispute must be postmarked or faxed no later than **[+60 days from date of mailing]** (the “Response Deadline”) to:

Your Work Week Dispute must be in writing and contain: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of Work Weeks you contend is correct; and (c) any evidence supporting your contention. Defendant’s records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all Work Week Disputes, and its decisions will be final and non-appealable. The Settlement will become final on the Effective Date.

Under California law, there is no statutory right for any PAGA Class Member to object to, opt out of, or otherwise exclude himself or herself from the settlement of the PAGA claims. Accordingly, any timely objection or exclusion from the Settlement submitted by you shall be construed as relating only to the putative class action claims and shall have no effect whatsoever on the settlement of the PAGA claims.

## **7. What am I giving up in exchange for the settlement benefits?**

In exchange for the settlement payment, each member of the Settlement Class who does not submit a valid Request for Exclusion (defined in response to Question 10 below), *i.e.*, Participating Class Members, will release Defendant BILL BROWN CONSTRUCTION COMPANY AND their officers and directors, and any of their former and present parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors, and assigns, as well as all past and present officers, directors, employees, partners, shareholders and agents, attorneys, insurers, and any other successors, assigns, or legal representatives, if any, (collectively, “Released Parties”) for all claims, rights, demands, liabilities, and causes of action, that were or could have been pleaded based on, arising from, or related to, the factual allegations set forth in the Operative Complaint and in the September 11, 2021 Notice of Labor Code Violations and PAGA Penalties sent to the LWDA and Defendant, including: (i) all claims for unpaid minimum and straight time wages; (ii) all claims for unpaid overtime; (iii) all claims for meal and rest break violations; (iv) all claims for unreimbursed business expenses; (v) all claims for the failure to timely pay wages upon termination; (vi) all claims for failure to timely pay wages during employment; (vii) all claims for wage statement violations; (viii) all claims that could arise under Business & Professions Code §§ 17200, *et seq.*, and claims for injunctive relief, punitive damages, interest, fees, and costs. (collectively, “Released Claims”). The Released Claims include, but are not limited to, claims under California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 512, 1194, 1194.2, 1197, 1198, 2699, *et. sq.*, 2802, and California Business & Professions Code §§ 17200, *et. seq.*

Plaintiff, the PAGA Class Members, the LWDA, and the State of California will fully release and discharge the Released Parties from any and all PAGA Claims asserted in the September 11, 2022, Notice of Labor Code Violations and PAGA Penalties sent to the LWDA and the Operative Complaint for the entire PAGA Period. This release will be binding on all PAGA Class Members regardless of if they submitted a valid and complete Request for Exclusion.

## **HOW TO GET A SETTLEMENT PAYMENT**

### **8. How do I get a settlement payment?**

Subject to the Court's final approval of the terms of the Settlement, you will automatically be sent a settlement payment at the address where this Notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator) in exchange for which you will release the Released Parties for any of the Released Claims (as defined in Section 7 above).

### **9. When will I get my check?**

Checks will be mailed to Participating Class Members eligible to receive benefits under the Settlement after the Court grants "final approval" of the Settlement and the Defendant funds the Settlement **no later than December 9, 2024**. Please also be advised that you will only have 180 days from the date that the checks are issued to cash them. If you do not cash your check within 180 days of the date of its issuance, your Individual Settlement Payment shall be voided. The funds from all checks that are not cashed within 180 days will be transmitted to California's Unclaimed Property Fund in your name. Please note that in the event that you do not cash your Individual Settlement Payment check, you shall nevertheless remain bound by the Settlement.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

### **10. How do I ask the Court to exclude me from the Settlement Class?**

If you do not wish to participate in the Settlement, you must send a written Request for Exclusion to the Settlement Administrator to "opt out" of the Settlement. The Request for Exclusion must be in writing and must: (a) include the case name and number (provided at the beginning of this Notice); (b) contain your full name, address, telephone number, and the last four digits of your Social Security number; (c) clearly state that you do not wish to be included in the Settlement; and (d) be signed. The Request for Exclusion must be postmarked or faxed no later than the Response Deadline, **+60 days from date of mailing** to:

**[Settlement Administrator]**

The date of the fax, email, or postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. A Class Member who does not request exclusion from the Settlement will be deemed a "Participating Class Member" and will be bound by all terms of the Settlement if the Settlement is granted final approval by the Court.

### **11. If I exclude myself, can I get anything from the settlement?**

No. If you ask to be excluded, and the Settlement is granted final approval by the Court, you will not get a settlement payment and you will not be bound by the Settlement. You are also prohibited from objecting to the Settlement if you exclude yourself from the Settlement.

## **OBJECTING TO THE SETTLEMENT**

### **12. How do I object to the Settlement?**

If you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you have several options that you may use to object to it or express any concerns. To object, you may (1) appear in person at the Final Approval Hearing and state your objections to the Court; (2) you can have an attorney object for you; or (3) you can submit a simple written statement of objection to the Settlement Administrator. The written objection must be faxed, emailed, or postmarked no later than the Response Deadline, **[+60 days from date of mailing]** to:

**[Settlement Administrator]**

If you submit a written objection to the proposed Settlement, it must include: (a) the case name and number (provided at the beginning of this Notice); (b) your full name, signature, address, telephone number, and the last four digits of your Social Security number, (c) a written statement of all grounds for your objection accompanied by any legal support for your objection, (d) copies of any papers, briefs, or other documents upon which your objection is based; (e) the identity of your attorney, if you are represented by counsel; and (f) whether you wish to be heard at the Final Approval Hearing. If you fail to object in the manner and by the deadline specified in this Notice, your written objection will be rejected, and the Court may find that you have waived your objection. However, in the discretion of the Court, any Participating Class Member, or person purporting to object on behalf of any Participating Class Member, may be received or considered by the Court at the Final Approval Hearing, regardless of whether a written notice of objection is filed or delivered to the Settlement Administrator.

### **13. What's the difference between objecting and asking to be excluded?**

Objecting is simply telling the Court you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. By submitting an objection you are not excluding yourself from the Settlement—you will remain eligible to receive monetary compensation from the Settlement and be bound by the Settlement if the Court grants final approval. Please note that you cannot both object to the Settlement and exclude yourself from the Settlement. You can only choose one of those options (but you can also choose to do nothing if you have no objections and just want to receive a payment).

## **IF YOU DO NOTHING**

### **14. What happens if I do nothing at all?**

If you do nothing, you will automatically receive a payment from this Settlement as described above and you will be bound by the release of claims, subject to the Court's final approval of the terms of the Settlement.

## **THE COURT'S FINAL APPROVAL HEARING**

The Court will hold a hearing to decide whether to approve the Settlement. If you have not asked to exclude yourself from the Settlement, you may attend and you may ask to speak, but you do not have to.

### **15. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval/Settlement Fairness Hearing on **[insert time/date]** in Department 19 at the Superior Court of California for the County of Santa Clara, located at 191 North First Street, San Jose, California 95113. Class members may appear at the final approval hearing remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at [https://www.scsccourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.shtml](https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml) and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact Class Counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized. The hearing may be moved to a different date and/or time without additional notice. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will only listen to people who have asked to speak at the hearing. The Court will also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on a website created by the Settlement Administrator for this case for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<**website**>>.

### **16. Do I have to come to the hearing?**

No. Class Counsel and Defendant's counsel will answer any questions the judge may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay (at your own expense) your own lawyer to attend, but it is not required.

If you want to appear at the Final Approval Hearing in person, please note that face coverings/masks and social distancing are mandatory in order to enter all Santa County courthouses. Alternatively, you may appear at the final approval hearing remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided in detail at the following web address on the Court's website: [https://www.scsccourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.shtml](https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml). Please review in advance. Class Members who wish to appear remotely are encouraged to contact Class Counsel at least three days before the hearing, if possible, so that potential technology or audibility issues can be avoided or minimized. Finally, the most up to date information regarding Santa Clara County Superior Court's COVID-19 safety measures can be found online at: [https://www.scsccourt.org/general\\_info/news\\_media/covid19.shtml](https://www.scsccourt.org/general_info/news_media/covid19.shtml).

### **17. May I speak at the hearing?**

If a Participating Class Member wishes to appear at the Final Approval Hearing and orally present his or her objection to the Court, the Court will determine whether and for how long any Participating Class Member may be received or considered by the Court at the Final Approval Hearing, regardless of whether a written notice of objection is filed or delivered to the Parties.

## **GETTING MORE INFORMATION**

### **18. How do I get more information?**

This Settlement Notice is only a summary of the Action and the Settlement. Class Members should contact the Settlement Administrator at **[Phone Number]** with any concerns or questions regarding the Settlement. You may also refer to the pleadings, the JOINT STIPULATION OF CLASS ACTION AND PAGA ACTION SETTLEMENT AND RELEASE attached to the Declaration of Kane Moon in Support of Plaintiff's Motion for Preliminary Approval, and other papers filed in the Action, which may be inspected at any time during regular business hours at the Office of the Clerk for the Superior Court of California for the County of Santa Clara, 191

North First Street San Jose, CA 95113.

In the event of a conflict between the terms of this notice and the Settlement, the terms of the Settlement will govern.

All inquiries by Class Members regarding this Notice and/or the Settlement should be directed to the Settlement Administrator or Class Counsel for Plaintiff, at the addresses set forth below.

Class Counsel

**[Settlement Administrator]**

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**PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH QUESTIONS.**