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12 Attorneys for Plaintiff DAVID CHERNO,
13 individually and on behalf of all others similarly situated

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN LUIS OBISPO – CIVIL BRANCH**

16 DAVID CHERNO, individually and on behalf
17 of all others similarly situated,

18 Plaintiff,

19 v.

20 PEOPLEASE LLC, a South Carolina
21 Limited Liability Company; DRAKE
22 FARMS TRUCKING, INC., a Texas
23 Corporation; and DOES 1 through 50,
24 inclusive,

25 Defendants.

Case No. 21CV-0513

ASSIGNED FOR ALL PURPOSES TO:
Honorable Rita Federman, Dept. 2

**DECLARATION OF JAMES HAWKINS IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT; MEMORANDUM
OF POINTS AND AUTHORITIES**

Date: November 2, 2023
Time: 9:00 a.m.
Dept.: 2

DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff DAVID CHERNO (hereinafter referred to as "Plaintiff" or "Class Representative"), who commenced this class and PAGA action on behalf of the Class Members and Aggrieved Employees. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as **Exhibit A** is a true and correct copy of the executed Settlement Agreement which the Parties ask the Court to approve. Attached as **Exhibit 1** to the Settlement Agreement is a true and correct copy of the Notice Class Action Settlement ("Class Notice").

3. On September 10, 2021 Plaintiff files a putative class action complaint entitled *DAVID CHERNO v. PEOPLEASE, LLC, et al.*, San Luis Obispo County Superior Court No. 21CV-0513 seeking damages for Defendants' alleged failure to: (1) failure to pay wages including minimum and overtime wages, (2) failure to timely pay wages upon termination pursuant to Labor Code § 203, (3) failure to provide accurate itemized wage statements, (4) failure to provide Day Rest as Required by Code §§ 551 and 552, (5) failure to reimburse business expenses, and (6) violation of Business & Professions Code section 17200, et seq.

4. On November 19, 2021 Plaintiff on behalf of the general public as private attorney general filed a PAGA representative action entitled *DAVID CHERNO v. PEOPLEASE, LLC, et al.*, San Luis Obispo County Superior Court No. 21CV-0651 seeking damages for Defendants' alleged (a) failure to pay minimum wages, (b) failure to pay all wages earned and owed upon separation from Defendants' employ, (c) failure to provide accurate itemized wage statements, (d) failure to provide a day's rest in seven; and (e) failure to reimburse necessary business expenses.

1 5. On August 4, 2022, the Parties engaged in private mediation with a well-respected
2 wage and hour class action mediator, Jeffrey Krivis. Prior to mediation, Plaintiff requested and
3 Defendants produced extensive documentation including time and pay data records for
4 approximately 90% of the class, policy documents applicable to the class during the Class Period,
5 class size information, information on the number of pay periods and workweeks, and information
6 regarding the hourly rates and workweek. In short, Defendants provided discovery sufficient to
7 enable the Plaintiff and Class Counsel to rigorously evaluate the strengths and risks of the case
8 and perform an analysis of the potential damages arising from the claims made in this case. As a
9 result of settlement efforts, the Parties agreed to settle this matter for the Gross Settlement Amount
10 of \$250,000.00 for approximately 110 class members and the terms of which are fully
11 memorialized in the Settlement Agreement.

12 6. As a result of the investigations, and subsequent settlement discussions and the
13 resultant settlement and scope of claims, May 17, 2023, Plaintiff filed a First Amended Class
14 Complaint wherein Plaintiff added the PAGA claims to the class complaint.

15 7. The “Class Members” are defined as all current and former non-exempt
16 employees of Defendants who worked for Defendants Drake Farms as truck drivers and/or were
17 issued wage statements by Peoplease, to work at Drake farms as truck drivers, during the time
18 period of September 10, 2017 through October 4, 2022. Defendants represents there are
19 approximately 110 Class Members as of the date of mediation, August 4, 2022. Defendants
20 represent that, for the period of September 10, 2017 through October 4, 2022, there were
21 approximately 7,000 Workweeks.

22 8. Plaintiff’s Counsel conducted a thorough investigation into the factual and legal
23 issues implicated by Plaintiff’s claims and was able to objectively assess the settlement’s
24 reasonableness. For example, prior to filing the action, Plaintiff contacted Plaintiff’s Counsel to
25 discuss the factual bases for pursuing their actions against Defendants for Labor Code violations.
26 Plaintiff was intimately familiar with Defendants’ labor policies and practices, and over the course
27 of multiple interviews, knowledgeably summarized those policies and practices to Plaintiff’s
28 Counsel. During those conversations, Plaintiff’s Counsel explained how the policies and practices

1 were instituted and provided valuable insight into how they gave rise to the alleged Labor Code
2 violations. Further, formal business records for Mr. Chernow were requested and received and
3 reviewed. Based on these interviews with Plaintiff, and review of records, Plaintiff's Counsel
4 determined that there were legally sufficient grounds for pursuing the Actions against Defendants
5 and in preparation for drafting the complaints, Plaintiff's Counsel conducted their own independent
6 preliminary investigations into the factual bases for Plaintiff's claims, which entailed, *inter alia*, a
7 careful examination of Plaintiffs' personnel files and associated records.

8 9. In summary, Plaintiff's Counsel performed a thorough investigation into the claims at
9 issue, which included: (1) determining Plaintiff's suitability as private attorneys general and
10 subsequent class representative through interviews, background investigations, and analyses of their
11 employment files and related records; (2) evaluating all of Plaintiff's potential representative claims;
12 (3) researching similar wage and hour class actions as to the claims brought, the nature of the
13 positions, and the type of employer; (4) analyzing employees' time and wage records and driver
14 manifest; (5) reviewing Defendants' employment policies and practices; (6) researching settlements
15 in similar cases and the prior settlement in this case; (7) evaluating Plaintiff's claims and estimating
16 Defendants' liability for purposes of settlement; (8) drafting the mediation brief; and (9)
17 participating in the mediation.

18 10. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
19 Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in
20 the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class
21 Members in light of all known facts and circumstances, including the risk of significant delay and
22 uncertainty associated with litigation, and various defenses asserted by Defendants.

23 11. Defendants denies any wrongdoing and deny liability with respect to the matters
24 alleged in the Complaint and believe that they have valid defenses to all of Plaintiff's claims.
25 Defendants further contends that they complied with all wage and hour laws applicable to the
26 employment of Plaintiff and other Class Members. To date, no class has been certified and no
27 court has made any findings that Defendants engaged in any wrongdoing or in any wrongful
28 conduct, or otherwise acted improperly or in violation of any law, rule or regulation with respect

1 to any of the issues presented in this action.

2 12. Since the filing of the complaint, the Parties have exchanged extensive
3 informal discovery and engaged in numerous discussions regarding the factual and legal issues
4 surrounding this case. Throughout the litigation, Defendants produced thousands of pages of
5 information and thousands of lines of data in both electronic and pdf formats, including policies,
6 handbooks, relevant policies, and payroll and time records. Defendants also provided Plaintiff's
7 personnel file, and information regarding the number of employees holding these positions during
8 the relevant time period. Defendants also provided substantial information concerning the total
9 number of potential class members, the payroll data at issue, and the applicable hourly rates,
10 workweeks and pay periods, and other summary data related to the alleged class. The Parties have
11 conducted themselves in informed, good faith arms-length negotiations after conducting discovery
12 and exchanging extensive evidence and information about the claims and defenses of this lawsuit
13 through informal discovery, and engaging in pre-mediation discussions, telephone conferences,
14 and correspondence all aimed at settling their dispute.

15 13. In preparation for the mediation, Plaintiff reviewed the entire discovery and
16 information produced. The information had to be extrapolated and processed to figure out the
17 amount of compensation Plaintiff contends are due to the Classes. The evidence and information
18 gathered and reviewed by counsel provided a factual framework for a comprehensible and reliable
19 damage model pertaining to all Settlement Class Members. The mediation included discussions
20 and examination of the proposed Classes and the Parties' respective positions on the legal and
21 factual issues raised in the Complaint.

22 14. As a result of the mediation, the Parties agreed to settle this matter for a Gross
23 Settlement Amount ("GSA") of \$250,000.00. Plaintiff's counsel balanced the terms of the
24 proposed Settlement against the risk of litigation and probable outcome at the class certification
25 stage, and if any Class were certified, at trial. Based on their own respective independent
26 investigations and evaluations, and after taking into account the sharply disputed factual and legal
27 issues involved in this matter, the risks attending further prosecution of the case, and the monetary
28 benefits received under the Settlement despite the questionable nature of the claims, Plaintiff's

1 counsel is of the opinion that Settlement for the consideration and on the terms set forth in the
2 Settlement Agreement is fair, reasonable and adequate and is in the best interests of Plaintiff sand
3 the Class. Counsel for the Parties investigated the applicable law as applied to the facts
4 discovered regarding the claims of Plaintiff, Defendants' defenses thereto and the damages
5 claimed by Plaintiffs on behalf of the Settlement Class.

6 15. I believe that the consideration and terms set forth in the Settlement Agreement are
7 fair, reasonable, and adequate and are in the best interests of the Settlement Classes in light of all
8 known facts and circumstances, including the various defenses asserted by Defendants, and
9 numerous potential appellate issues. In addition, the prospect of a potential adverse summary
10 judgment ruling, as well as the uncertainty of class certification, the difficulties of complex
11 litigation, the lengthy process of establishing specific damages and various possible delays and
12 appeals, were also carefully considered in agreeing to the proposed Settlement.

13 16. The GSA includes, without limitation, (1) attorneys' fees in the amount of
14 \$83,250.00 ("The Fee Award") and reimbursement of reasonable litigation costs and expenses in
15 the amount of up to \$20,000.00¹ to Class Counsel ("The Cost Award"); (2) incentive award to
16 Plaintiff in the amount of up to \$15,000.00 ("Incentive Award"); (3) fees and expenses of
17 administration of the Settlement to the Settlement Administrator in an amount not to exceed
18 \$10,000.00 ("Settlement Administrator's Fees"); (4) \$25,000.00 to PAGA with twenty-five
19 percent (25%) share of the PAGA Penalties to be a part of the Net Settlement Sum that will be
20 distributed to Class Members in the PAGA Group in the amount of \$6,250.00; and (5) the
21 seventy-five percent (75%) share of PAGA Penalties ("LWDA Payment") in the amount of
22 \$18,750.00 to the California Labor and Workforce Development Agency ("LWDA"). **The Entire**
23 **Total Settlement Amount will be paid to all Class Members who do not opt out of the**
24 **Settlement Class, and without the need to submit claims for payment.** After deductions, the
25 Net Settlement Amount ("NSA") is estimated to be approximately **\$106,750.00**. The Class
26
27

28 ¹ Class Counsel's costs to date are approximately \$14,578.61 so the Net Settlement
Amount will likely be increased by approximately \$15,000.00.

1 Members are to be paid based from the NSA on a pro rata basis based upon the weeks each class
2 member worked in comparison to the total work weeks worked by all Class Members.

3 17. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiff
4 involved both in not prevailing on one or more of the causes of action or theories alleged in the
5 operative Complaints and in non-certification, and if successful, Defendants disputes the ability of
6 Plaintiff to certify a class in this case. Defendants also argued it maintained lawful written
7 policies that were provided to the class members and enforced those policies. Yet, despite the
8 defenses proffered by Defendants, the proposed Settlement commits Defendants to pay each Class
9 Member a portion of the NSA. The amount to be paid to the Classes is fair, adequate and
10 reasonable given the significant risk to Plaintiff and the Class in continuing with the litigation and
11 not prevailing on their claims at class certification or at trial or not being paid anything even if trial
12 was successful.

13 18. The Parties investigated relevant law as applied to the facts of the case, potential
14 defenses, and damages claimed by Plaintiff on behalf of himself and the Class. Discovery largely
15 focused on Plaintiff's allegations that Class Members were not paid all wages owed, including
16 overtime and minimum wages, were forced to work seven days a week without a day of rest,
17 received improper wage statements, were not reimbursed all necessary expenses, and were not
18 paid all owed and due wages during employment and upon separation of employment.
19 Information and data exchanges included significant sampling of Class Members' dates of
20 employment , hourly rates time records, payroll records, and arbitration agreements. The parties
21 conducted their own evaluations of the potential recoveries based on the claims alleged in the
22 Action and the defenses at play.

23 19. Defendants generally deny all claims alleged in the action and further deny class or
24 representative treatment is appropriate for any purpose other than this settlement. Defendants also
25 contend many of Plaintiff's claims are preempted and fail as a matter of law. It is therefore also
26 Defendants' position that if litigation continued, class certification would not be granted, or if it
27 were, that it would be reversed, and would not result in any liability on the merits in any event.
28 Defendants contend Plaintiff is not an adequate class representative, his claims are not typical of

1 the Class, and individual issues predominate over common ones. However, Defendants have
2 concluded further litigation would be protracted and expensive. Thus Defendants determined it is
3 desirable to settle the Action in the manner and upon the terms and conditions of the settlement
4 agreement.

5 20. Although Plaintiffs' Counsel believe the class claims are strong, Plaintiffs' Counsel
6 also recognize that if the litigation had continued, they may well have encountered significant legal
7 and factual hurdles that could have prevented the Class from obtaining any recovery. To be sure, a
8 number of cases have found wage and hours actions to be especially amenable to class resolution.
9 However, some courts have gone the other way, finding that some of the very claims at issue here-
10 especially meal period and rest period violations-were not suitable for class adjudication because
11 they raised too many individualized issues. *See Duran v. US. Bank National Association*, 59 Cal.
12 4th 1 , 31 (2014) (reversing a verdict from a class trial); *Ali v. US.A. Cab Ltd.*, 1 76 Cal. App. 4th
13 1333, 1341 (2009) (affirming denial of certification because employees' declarations attesting to
14 having taken meal and rest periods demonstrated that individualized inquiries were required to show
15 harm); *Campbell v. Best Buy Stores, L.P.* , 2013 U.S. Dist. LEXIS 137792, at *30- 41 (C.D. Cal.
16 Sept. 20, 2013) (following *Brinker* and denying certification of proposed off-the-clock and rest and
17 meal break classes due to lack of uniform policy); *Jimenez v. Allstate Ins. Co.*, 2012 U.S. Dist.
18 LEXIS 65328 (C.D. Cal. Apr. 18, 2012) (denying motion to certify meal and rest period classes
19 based on employer's practice of understaffing and overworking employees); *Gonzalez v. Officemax*
20 *NA.*, 2012 U.S. Dist. LEXIS 163853 (C.D. Cal. Nov. 5, 2012) (same); *Brown v. Fed. Express Corp.*,
21 249 F.R.D.580, 587-88 (C.D. Cal. 2008) (denying certification of driver meal and rest period claims
22 based on the predominance of individual issues); *Kenny v. Supercuts, Inc.*, 252 F.R.D. 64 I, 645
23 (N.D. Cal. 2008) (denying certification on meal periods claim); *Blackwell v. Skywest Airlines, Inc.*
24 , 245 F.R.D. 453, 467- 68 (S.D. Cal. 2007) (declining to certify class action because individual
25 issues predominated when different employee stations provided different practices with respect to
26 meal periods).

27 21. Some courts have denied certification even when an employer's policies are unlawful
28

1 on their face. For instance, in *Ordonez v. Radio Shack, Inc.*, 2013 U.S. Dist. LEXIS 7868, *35-41
2 (C.D. Cal. Jan. 17, 2013), the court denied certification even though the plaintiff submitted evidence
3 of a facially unlawful policy regarding rest breaks. The *Ordonez* court concluded that the
4 predominance and superiority elements were not met based on the employer's presentation of
5 anecdotal evidence of lawful compliance notwithstanding the unlawful policy. *Id.* at *38-40. And it
6 should be underscored that that claims which are amendable to certification can be disposed of by
7 motion for summary judgment. *See Loudv. Eden Med. Ctr.*, 2013 U.S. Dist. LEXIS 122873, **36-
8 53 (N.D. Cal. Aug. 28, 2013) (granting summary judgment on wage statement claim because
9 plaintiff could not show injury due to defects and that incorrect wage information is not willful).

10 22. As the above examples illustrate, the prospect of certifying a wage and hour action
11 is always uncertain, and the risk of being denied class certification militates in favor of settlement.
12 A denial of class certification effectively forecloses continued litigation, as neither the individual
13 nor his or her attorney will have any incentive to proceed with an individual case when such small
14 claims are at stake. *See In re Baycol Cases I & II*, 51 Cal. 4th 751, 758 (2011) (explaining that a
15 dismissal of class claims is effectively the "death knell" of the case, despite survival of individual
16 claims). In other words, for cases where individual damages are relatively small, denial of class
17 certification results in a near-complete loss for Plaintiffs as well as no recovery for the employees,
18 who are shut out of the action. Thus, if the putative Class had not been certified, the value of
19 Plaintiffs' case would have been reduced to a fraction of the value of this Settlement; indeed,
20 Defendants would likely have offered no money to settle the class-wide claims if certification had
21 been denied.

22 23. Finally, early resolutions save time and money that would otherwise go to litigation.
23 Parties' resources, as well as the Court's, will be further taxed by continued litigation. And if this
24 action had settled following additional litigation, the settlement amount would likely have taken into
25 account the additional costs incurred, and there may have been less available for Class Members.
26 Cost savings is one reason why California policy strongly favors early settlement. *See Nemy v.*
27 *Regents of University of California*, 3 Cal. 4th 273, 277 (1992) (explaining the high value placed on
28

1 settlements and observing that "[s]ettlement is perhaps most efficient the earlier the settlement
2 comes in the litigation continuum."). This concern also supports settlement.

3 24. Further, beyond the risk of an adverse ruling on the merits or certification, Class
4 Counsel considered the fact that continued litigation would likely take years and would be
5 extremely expensive given the breadth and complexity of the claims. In this case, post-trial and
6 appellate proceedings are likely to occur, which will surely drag the case far into the future even
7 with a positive trial result. When facing a distant and unsure resolution of the allegations in this
8 action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such costly
9 litigation in favor of more immediate benefits to the Class was a consideration favoring settlement.
10 Given these realities, it is highly likely that the future expense of this litigation, and its likely
11 duration if the settlement is not approved, would be significant and weigh heavily in favor of
12 approval of this settlement.

13 25. The GSA is well within the acceptable range of reasonableness for the claims
14 of the Settlement Class Members. After analysis and review of Defendants' time and pay record
15 production and other payroll data, Class counsel estimates the overall value of the claims at
16 approximately **\$1,426,002.32.00.** should Plaintiff prevail at the class certification stage and at trial
17 and survive any appeals and win on all claims and be awarded maximum damages for call class
18 members and certain assumptions and extrapolations were confirmed with further discovery. This
19 amount was reduced by a reasonable 50% to **\$713,000.00** to account for the risks of continued
20 litigation and not prevailing on one or more claims and the Court not awarding penalties based
21 upon Defendants' good faith arguments. Indeed, Defendants' apparent compliant policies could
22 potentially support Defendants' good faith and lack of willfulness arguments, where for example
23 LC 203 and 226 claims could be reduced to zero, which accounts for approximately 50% of the
24 alleged penalties and damages disused herein.

25 26. There are an estimated 7,000 workweeks during the class period and
26 approximately 6,000 pay periods during the PAGA Period. The value of the failure to pay wages
27 was valued at approximately **\$98,416.00** calculated as follows: 0.35 hours per workweek x \$40.17
28 weighted average OT rate x 7,000 workweeks. Defendants also potentially owes to class members

1 **\$385,632 in waiting time penalties** (for a total of 60 termed employees). The value of the failure
2 to reimburse necessary business expenses was approximately **\$71,120** based on \$40 per month in
3 unreimbursed expenses. The meal period claim was valued at approximately **\$298,436.32** based
4 upon approximately 11,144 alleged violations. The value of the LC 226 claim was valued at
5 **\$272,398**. Defendants also potentially owes to class members **\$300,000 in PAGA penalties**
6 (6,000 pay periods x reasonable \$50 penalty). As a result, the GSA of \$250,000.00 represents a
7 reasonable recovery and approximately 23-47% of the overall potential value. This recovery could
8 easily be much higher if at trial PAGA penalties were reduced or damages for certain pay periods
9 or workweeks could not be proven for certain individuals. The proposed GSA is within the
10 “ballpark of reasonableness” and should be approved. Counsel for Plaintiffs believe that this is a
11 fair and reasonable Settlement in light of the complexities of the case, the state of the law and
12 uncertainties of class certification and litigation, the policies and practices Defendants has had in
13 place or implemented during the purported liability period, and the benefit to be recovered for the
14 Class. Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable and is
15 in the best interests of the Settlement Class, and should be preliminarily approved.

16 27. Based on the estimated Net Settlement Amount of \$106,750.00 provides on
17 average each Settlement Class Member with approximately **\$970** per Class Member. The highest
18 amount a Settlement Class Member will receive is approximately **\$3,000** based upon \$10.71 per
19 workweek multiplied by approximately 7,000 maximum workweeks in the during the Class
20 Period. The lowest payment is estimated to be approximately **\$10.71** for someone who worked
21 only one workweek. To the extent any amount for Attorneys’ Fees, Costs, Claims Administration
22 Costs or Incentives are not awarded, the difference in those amounts will be added to the NSA.
23 This is a guaranteed amount of money paid to Settlement Class Members now, rather than the
24 continued risk of further litigation and receiving no money sometime in the far future and after
25 trial and appeals.

26 28. The PAGA members who worked during the PAGA period will be paid a PAGA
27 Payment based upon a pro rata share of the number of pay periods each PAGA member worked
28 compared to the total pay periods worked by all PAGA group members during the PAGA period

1 of September 10, 2020 through October 4 2022. As a result, there are approximately 60 PAGA
2 members who will each receive approximately \$104 per PAGA member.

3 29. The Class Representative has provided extensive supporting documents and
4 assisted Class Counsel in developing information necessary to litigate and settle this case.
5 Plaintiff also conducted record review and consultation with counsel in preparation for mediation,
6 and to assist in evaluating and proving the claims. The settlement provides for a Payment to be
7 paid to the Class Representative in the amount of \$15,000.00 subject to Court approval. The
8 purpose is to compensate the Class Representatives an additional incentive payment, taking into
9 consideration the risks, time, effort and expenses incurred in coming forward to provide invaluable
10 information and negotiate and litigate this matter on behalf of all Settlement Class Members who
11 otherwise, would probably not file their own individual claims to recover what may be relatively
12 low damages. Further, the Payment of \$15,000.00 as an Incentive Award to the Class
13 Representative is a very fair and justified as part of the Settlement based on the risks Plaintiff has
14 taken and benefits conferred upon the Settlement Class.

15 30. Class certification, as requested by the Parties for the purposes of the settlement
16 only, should be granted because Plaintiff allege that the proposed Settlement Class Members'
17 claims all stem from the same alleged conduct, i.e., that Defendants violated California law
18 because they: (1) failed to pay wages including minimum and overtime wages, (2) failed to timely
19 pay wages upon termination pursuant to Labor Code § 203, (3) failed to provide accurate itemized
20 wage statements; (4) failed to provide a day's rest in seven, (5) failed to reimburse business
21 expenses, and (6) violation of the UCL. In addition to compensatory damages, Plaintiff and the
22 Settlement Class seek attorneys' fees, costs, and interest. Under these specific circumstances, the
23 commonality requirement for class certification is satisfied. The typicality requirement for
24 certification is also met as it is alleged that the Class Representatives and the proposed Settlement
25 Class were subjected to similar violations based upon similar conduct, policies and practices of the
26 Defendants regardless of their duties.

27 31. The adequacy requirement for certification is also met. The Class Representative
28 and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class. The

1 Class Representative will receive a reasonable award for the time and effort spent assisting Class
2 counsel with factual issues surrounding the case. Other than this specific payment to the Class
3 Representative, all of the Settlement Class Members will receive a proportionate share of the
4 NSA, as detailed above provided they do not exclude themselves. Further, all PAGA Members
5 during the PAGA Period will receive their pro rata share of PAGA Penalties. As a result, there is
6 no conflict of interest between the Class Representative and the Settlement Class Members.
7 Further, the NSA will be fairly distributed among Participating Class Members, and no
8 “settlement allocation” questions will be raised.

9 32. Common questions of law and fact predominate over individual questions and
10 class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the
11 proposed Settlement Classes in this case are sufficiently cohesive, since all Settlement Class
12 Members share a common nucleus of facts and potential legal remedies, and since all of the
13 Settlement Class Members and the Class Representative seek compensation for unpaid wages and
14 other civil and statutory penalties from Defendants for the allegations described in the Complaints.
15 Common questions about compensation or lack thereof for work performed by Settlement Class
16 Members and the Settlement Class Members’ potential legal remedies are identical. The
17 alternative method of resolution is individual claims for relatively small amounts of damages, but
18 individual cases would be uneconomical for potential plaintiffs because the cost of litigation
19 dwarfs potential recovery. Therefore, a class action is the preferred method of resolution.

20 33. The class notice plan here calls for the Settlement ILYM Group, Inc., to mail a
21 Notice of Class Action settlement to all known and reasonably ascertainable Settlement Class
22 Members based on Defendants’ records. Further, the Settlement Administrator will conduct a
23 skip-trace and use all reasonable efforts to locate Settlement Class Members and will re-mail all
24 returned envelopes with forwarding addresses. The notice is consistent with the class certification
25 notices approved by numerous state and federal courts, and is the best notice practicable under
26 circumstances of this case. The proposed Settlement Class Members are ascertainable because all
27 of the Settlement Class Members have worked for Defendants during the Class Periods and can be
28 identified through Defendants’ records.

1 34. The Notice also fulfills the neutrality requirement. It summarizes the proceedings
2 to date and the terms and conditions of the Settlement in an informative and coherent manner, and
3 is accurate, objective, and understandable to Settlement Class Members, as is required under
4 prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of
5 liability by Defendants and recognizes the Court has not ruled on the merits. It also states the final
6 settlement approval decision has yet to be made. The Notice also clearly instructs the Settlement
7 Class Members on how to object or exclude themselves from the Settlement. Therefore,
8 Settlement Class Members will have the option to participate or exclude themselves simply by
9 mailing a request to exclude themselves. The Settlement Class consists of non-exempt employees
10 who speak English. Thus, the Notice of Class Action is drafted in a manner that is likely to be
11 readily understood by the Settlement Class. Accordingly, the Notice complies with the standards
12 of fairness, completeness and neutrality required of a Notice of Class Action Settlement. The
13 Notice therefore is neutral, objective and understandable.

14 35. I have a great deal of experience in wage and hour class action litigation. I have
15 obtained certification of several classes, I have been approved as class counsel in many other
16 wage/hour class actions, and I am currently litigating numerous others. Although not an all
17 inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-
18 lead counsel, all of which implicated similar law and facts to those associated with this action:

19 a. *Aguilar v. 7-Eleven, Inc., et. al.*, Orange County Superior Court- Case No.: 30-
20 2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium
21 wages for meal period and rest periods and resultant penalties. Class Notice pending.

22 b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT- Case
23 No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-
24 classification of insurance claims adjusters employed by Gallagher Bassett, a third
25 party administrator (TPA) in the State of California. Certification granted. Plaintiffs'
26 counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds
27 fully distributed.

28 c. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-

04554. Wage and Hour Class Action case seeking past wages for “off the clock”, overtime and meal and rest break violations for production workers in the State of California. Plaintiffs’ Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs’ counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

e. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs’ Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Settlement for “binding arbitration.” Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiffs’ counsel, lead trial counsel and class counsel.

g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiffs’ counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiffs’ counsel appointed as co-lead counsel. Case settled,

Final Approval granted, no objections and funds fully distributed.

i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully distributed.

j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by Defendants in the State of California. Plaintiffs' counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for housekeepers employed by Defendants in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

m. *Ruiz, et al. v. Unisource Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT, Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest period violations for non-exempt employees employed by Defendants in the state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has petitioned the Court for Lead Counsel.

n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages

1 for field and branch employees of Defendants in the State of California. Plaintiffs’
2 counsel appointed as lead counsel. Case settled and awaiting Final Approval.
3 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
4 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
5 employees of Defendants in the State of California. Plaintiffs’ counsel appointed as
6 lead counsel. Case settled, Final Approval granted, no objections and funds fully
7 distributed.
8 p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.
9 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest
10 break violations for security guards employed by Defendants in the State of California.
11 Plaintiffs’ counsel appointed as lead counsel. Case settled, Final Approval granted, no
12 objections and funds fully distributed.
13 q. *Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.*, Los Angeles Superior
14 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and
15 rest break violations for production employees employed by Defendants in the State of
16 California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval
17 granted, no objections and funds fully distributed.
18 r. *McMurray v. Dave and Busters, Inc., et al.*, Orange County Superior Court, Case
19 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest
20 break violations for restaurant employees employed by Defendants in the State of
21 California. Plaintiffs’ counsel appointed as co-lead counsel. Case settled, Final
22 Approval granted, no objections and funds fully distributed.
23 s. *Osuna v. DFG Restaurants, Inc., et al.*, Los Angeles Superior Court, Case No. BC
24 330145. Wage and Hour Class Action seeking past wages of overtime for mis-
25 classification of managers employed by Defendants, DBA Carl’s Jrs. in the State of
26 California. Plaintiffs’ counsel appointed as co-lead counsel. Case settled, Final
27 Approval granted, no objections and funds fully distributed.
28 t. *Burns v. Gymboree Operations, Inc., et al.*, San Francisco Superior Court, Case No.

1 CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest
2 break violations for retail employees employed by Defendants in the State of
3 California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval
4 granted, no objections and funds fully distributed.

5 u. *Willems v. Diedrich Coffee, Inc.*, et al., Orange County Superior Court, Case No.
6 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-
7 classification of managers employed by Defendants in the State of California.
8 Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no
9 objections and funds fully distributed.

10 v. *Davila, et al. v. Beckman Coulter, Inc.*, et al., Orange County Superior Court, Case
11 No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal
12 and rest break violations for production workers employed by Defendants in the State
13 of California. Plaintiffs' counsel appointed lead counsel. Case settled; final approval
14 granted; no objections and funds fully distributed.

15 w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
16 Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime,
17 meal and rest period violations for production employees employed by Defendants in
18 the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final
19 Approval granted, no objections and funds fully distributed.

20 36. Here, the Parties' agreement to pay Class Counsel Fees of 35% of the GSA is
21 reasonable. My firm and I have been the only counsel to represent Plaintiff and the Settlement
22 Class in this matter, and we have borne the entire risk and cost of this litigation on a pure
23 contingency fee basis. The legal issues raised drew significantly upon my experience and the
24 extensive review and analysis of documents and information by me and others at my firm and our
25 co counsel. In a complex action such as this, the proposed attorneys' fees are, at the very least, on
26 the low side of the market rate for contingency fees.

27 37. At this juncture, with the addition of more hours due to the administration of the
28 the Settlement by Class Counsel, administration of the Settlement, and preparation for final

1 approval, counsel for plaintiff will provide a detailed analysis of its time in advance of the final
2 approval hearing. Plaintiff's counsel will file a motion for attorneys' fees and costs to be heard
3 concurrently with the motion for final approval in accordance with the terms of the settlement
4 agreement.

5 38. Despite the complexity of the case, Class Counsel has, through the investment of
6 substantial effort and the resources of my law firm been able to secure an outstanding settlement
7 on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual
8 obstacles in demonstrating that class certification was appropriate. Plaintiff would also have been
9 required to establish a significant amount of witness testimony, pattern and practice evidence,
10 statistical evidence, sampling evidence, expert testimony, and other evidence in order to present
11 their case both at the class certification stage and trial. Defendants vigorously contested liability,
12 the amount of claimed damages, and the propriety of class certification, and would have continued
13 to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and adequate
14 and in the best interests of the Settlement Class. The fairness and adequacy of the Settlement is
15 confirmed by all known facts and circumstances, including the risk of significant delay and
16 uncertainty associated with litigation, the various defenses asserted by Defendants, and numerous
17 potential appellate issues.

18 I declare under penalty of perjury that the foregoing is true and correct. Executed on
19 October 6, 2023 at Irvine, California.

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21 _____
22 James R. Hawkins
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EXHIBIT A

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Attorneys for Plaintiff,

DAVID CHERNO,

on his own and behalf of all others similarly situated

Additional Counsel As Noted Herein

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

DAVID CHERNO, on behalf of the general
public as private attorney general,

Plaintiff,

vs.

PEOPLEASE LLC, a South Carolina Limited
Liability Company; DRAKE FARMS
TRUCKING, INC. a Texas Corporation; and
DOES 1 through 50, inclusive,

Defendants

) Case No.: 21CV-0651
) [Case Assigned to Hon. Rita C. Federman
) Dept. 2]**CLASS ACTION****JOINT STIPULATION OF CLASS
ACTION SETTLEMENT**

Complaint Filed: November 19, 2021

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Attorneys for Defendant,

PEOPLEASE, LLC.

This Joint Stipulation of Class Action Settlement (“Joint Stipulation” or “Settlement”) is made and entered by and between Plaintiff, DAVID CHERNO, in his individual capacity, as class representative, and as private attorneys general (collectively referred to as “Plaintiff”) on one hand, and Defendants, PEOPLEASE, LLC (“Peoplease”) and DRAKE FARMS TRUCKING, INC. (“Drake Farms”) (collectively “Defendants”), on the other hand. This Joint Stipulation will be binding on Plaintiff and the class purported to be represented thereby, and Defendants, subject to the terms and conditions set forth below and the approval of the Court.

I. DEFINITIONS.

To the extent any terms or phrases used in this Joint Stipulation are not specifically defined in this section (i.e., Section I), but are defined elsewhere in this Joint Stipulation, they are incorporated herein by reference.

“Action” collectively means the class action filed by Plaintiff David Cherno against Defendants, pending in the Superior Court of the State of California, County of San Luis Obispo: *David Cherno v. Peoplease LLC, et al.*, San Luis Obispo Superior Court, Case No. 21CV-0513; and the PAGA action filed by Plaintiff David Cherno against Defendants, pending in the Superior Court of the State of California, County of San Luis Obispo: *David Cherno v. Peoplease LLC, et al.*, San Luis Obispo Superior Court, Case No. 21CV-0651.

“Aggrieved Employees” or “PAGA Employees” means all current and former non-exempt employees who worked for Defendants Drake Farms as truck drivers and/or were issued wage statements by Peoplease, to work at Drake Farms to work as truck drivers, during the time period of September 10, 2020 through October 4, 2022.

“Class” or “Class Members” means all means all current and former non-exempt employees who worked for Defendants Drake Farms as truck drivers and/or were issued wage statements by Peoplease, to work at Drake Farms as truck drivers, during the time period of September 10, 2017 through October 4, 2022. Defendant represents there are approximately 110 Class Members who worked from the start of the Class Period through the date of the parties’ mediation on August 4, 2022

1 “Class Counsel” means counsel for the Plaintiff, James R. Hawkins, Gregory Mauro,
2 Michael Calvo, and Jeanne Sarmiento with JAMES HAWKINS APLC.

3 “Class Period” means from September 10, 2017, through October 4, 2022.

4 “First Amended Complaint” or “FAC” means the operative complaint(s) filed by Plaintiff
5 in the Action and all amendments thereto.

6 “Defendants” collectively means Peoplease, LLC and Drake Farms Trucking, Inc.

7 “Effective Date” means the date by which the Court’s order granting Final Approval of
8 this Joint Stipulation becomes final. Such order becomes final upon the following events:

9 (a) the date the Court enters the Final Judgment and order finally approving the Settlement, if
10 no objections, motions for reconsideration and no appeals or other efforts to obtain review have
11 been filed, or (b) in the event that a motion for reconsideration, an appeal or other effort to obtain
12 review of the Final Judgment and order finally approving the Settlement, the date sixty (60) days
13 after such reconsideration, appeal or review has been finally concluded and is no longer subject
14 to review, whether by appeal, petition for rehearing, petition for review or otherwise and the
15 Settlement has not been materially modified. A "material modification" shall not include any
16 change to the Class Counsel Award, Class Representative Service Award, or amount awarded
17 for Settlement Administration Costs.

18 “Final Approval” means the date upon which the Court enters an order granting approval
19 of this Joint Stipulation, after having determined that the settlement is fair, adequate, and
20 reasonable to the Class following notice to the Class and a hearing on the fairness of the
21 settlement.

22 “Final Approval Hearing” means the final hearing held to ascertain the fairness,
23 reasonableness, and adequacy of the Joint Stipulation, after which the Court will enter its order
24 approving the Joint Stipulation finally.

25 “Opt-Out” means all persons who timely and validly request exclusion from the Class.
26 Class Members who Opt-Out will still release PAGA claims.

1 “PAGA Members” means all means all current and former non-exempt employees who
2 worked for Defendants Drake Farms as truck drivers and/or were issued wage statements by
3 Peoplease, to work at Drake Farms as truck drivers, during the PAGA Period.

4 “PAGA Period” means all pay periods worked by Class Members as nonexempt truck
5 drivers who worked during the Period of September 10, 2020, through October 4, 2022

6 “PAGA Payment” means the \$25,000.00 allocated from the Gross Settlement Amount for
7 release of penalties under PAGA, 75% (\$18,750.00) of which will be paid to the California
8 Labor & Workforce Development Agency (“LWDA”) and 25% (\$6,250.00) will be paid to
9 Aggrieved Employees.

10 “PAGA Released Claims” means all claims which Plaintiff, and Aggrieved Employees
11 have, as disclosed in LWDA letter dated September 10, 2021 and amended LWDA letter
12 January 6, 2023, and as alleged in the First Amended Complaint (“FAC”.) These include claims
13 under Labor Code Sections 201-204, 210, 226, 226.2, 226.3, 551, 552, 558, 1174, 1174.5, 1194,
14 1194.2, 1197, 1197.1, 1198, 1198.5, and 2802.

15 “Parties” means Plaintiff and Defendants.

16 “Preliminary Approval” means the date upon which the Court enters an order granting
17 preliminary approval of this Joint Stipulation.

18 “Preliminary Approval Hearing” means the hearing held on the Motion for Preliminary
19 Approval of the Joint Stipulation.

20 “Released Claims” means all claims which Plaintiff, the Class, and/or any Class Member
21 had, or may claim to have, against any of the Released Parties, for any and all federal, state and
22 local demands, rights, liabilities, claims and/or causes of action, known or unknown, that are
23 alleged in the Action, or could have been reasonably alleged in the Action based on the facts
24 alleged in the Action for Defendants’ alleged failure to pay minimum and regular wages
25 (including for off-the-clock work), pay timely wages during employment, pay all earned and
26 accrued wages to discharged/separated employees, furnish accurate itemized wage statements,
27 maintain required payroll records, and indemnify employees for business expenses in violation
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of Labor Code Sections 201-204, 210, 226, 226.2, 226.3, 551, 552, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802, Business & Professions Code section 17200, et seq.

“Released Parties” means Defendants and their present and former officers, directors, owners, agents, assigns, successors, employees, partners, shareholders, parent entities, subsidiaries, affiliates, entities under whose name they conduct business, predecessors, attorneys, or legal representatives.

“Settlement Administrator” means ILYM Group, Inc.

“Settlement Administrator’s Fees” means all fees, costs, and expenses relating to the administration of the settlement in this Action, including without limitation, printing and mailing Class Notice Forms, receiving and processing Opt-Outs, calculating and determining payments and percentages, regularly updating counsel on the status of administration, and the accounting and maintenance of the Settlement Fund Account.

“Settlement Fund Account” means the bank account established under this Joint Stipulation from which all monies payable under this Joint Stipulation shall be paid, as set forth herein.

“Gross Settlement Amount” means the two hundred and fifty thousand dollars (\$250,000.00) to be paid by Drake Farms only, in the aggregate to resolve this Action, on a non-claims-made and non-reversionary basis. The Gross Settlement Amount is all-inclusive.

The following costs will be deducted from the Gross Settlement Amount: (1) attorney fees and costs (Defendants will not oppose Class Counsel’s request for attorney fees amounting to one third of the Gross Settlement Amount, or \$83,250, and a maximum of \$25,000 in litigation costs as documented in billing statements of the attorneys for Plaintiff); (2) settlement administration fees (estimated not to exceed \$10,000); (3) Incentive Award to Plaintiff, as class representative, in the amount of \$15,000.00; (4) 75% of the \$25,000 PAGA Payment that is payable to the LWDA (or \$18,750.00); and (5) the employer-side payroll taxes attributed to the wage portion of settlement payments to Class Members for release of the Class Released Claims. Any deductions from the above allocations will be deposited into the Settlement Fund Account and

1 will be included in the Net Settlement Amount for distribution to the Class. The Gross
2 Settlement Amount shall be paid by Defendant Drake Farms.

3 “Net Settlement Amount” means the net amount available for payment of claims to Class
4 Members after deducting the above-referenced costs from the Gross Settlement Amount. If the
5 Court approves a lesser amount of any of the above-referenced costs, the Net Settlement Amount
6 will increase proportionately. In other words, any reductions from the above-referenced costs
7 will increase the Net Settlement Amount proportionally – also referred to herein as the “Payout
8 Fund.”

9 **II. PRE-TRIAL PROCEEDINGS AND NEGOTIATIONS.**

10 **A. Discovery, Investigation, and Research.**

11 The Parties investigated facts and law throughout the Action. Investigation included the
12 exchange of information under discovery procedures. It also included preparing for and
13 attending a full-day mediation with esteemed mediator, Jeffrey Krivis, Esq. The Parties
14 eventually reached a settlement after a full day of mediation.

15 The Parties investigated relevant law as applied to the facts of the case, potential defenses,
16 and damages claimed by Plaintiff on behalf of himself and the Class. Discovery largely focused
17 on Plaintiff’s allegations that Class Members were not paid all wages owed, including overtime
18 and minimum wages, were forced to work seven days a week without a day of rest, received
19 improper wage statements, were not reimbursed all necessary expenses, and were not paid all
20 owed and due wages during employment and upon separation of employment. Information and
21 data exchanges included significant samplings of Class Members’ dates of employment, hourly
22 rates, time records, payroll records, and arbitration agreements. The Parties conducted their own
23 evaluations of the potential recoveries based on the claims alleged in the Action and the defenses
24 at play.

25 **B. Allegations of the Class Representatives and Benefits of Settlement.**

26 The Parties entered into this Joint Stipulation after arm’s length bargaining by the Parties
27 with the assistance of a very experienced mediator and after Class Counsel thoroughly reviewed
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1 all available evidence. The information exchanged between the Parties allowed them to assess
2 the merits of the claims and defenses, and to reach a compromise of the issues.

3 Plaintiff and Class Counsel all contend the claims asserted in the Action have merit.
4 However, they also acknowledge the expense and delay of continued litigation. Class Counsel
5 considered the uncertain outcome and risk of litigation, and the difficulties and delays inherent
6 in such litigation. Class Counsel also considered the potential difficulty maintaining the Action
7 as a class action and the likelihood of appeals. In addition, Class Counsel considered
8 Defendants' numerous defenses and the non-typical aspects of the Class Members' jobs and job
9 duties.

10 Class counsel determined this Joint Stipulation confers substantial benefit to the Class
11 and respectfully submits an independent review by the Court will confirm this conclusion. Class
12 Counsel has determined that this Joint Stipulation is in the best interests of Plaintiff and the
13 Class Members.

14 **C. Defendants' Denial of Wrongdoing, Defenses, and Benefits of Settlement.**

15 Defendants generally deny all claims alleged in the Action and further deny class or
16 representative treatment is appropriate for any purpose other than this settlement. Defendants
17 contend they complied with all applicable laws, whether California or federal law. Defendants
18 also contend many of Plaintiff's claims are preempted and fail as a matter of law. It is therefore
19 also Defendants' position that if litigation continued, class certification would not be granted,
20 or if it were, that it would be reversed, and would not result in any liability on the merits in any
21 event. Defendants contend Plaintiff is not an adequate class representative, his claims are not
22 typical of the Class, and individual issues predominate over common ones. However,
23 Defendants have concluded further litigation would be protracted and expensive. Thus,
24 Defendants determined it is desirable to settle the Action in the manner and upon the terms and
25 conditions herein.

26 **D. Intent of the Settlement.**

27 This Joint Stipulation intends to achieve the following: (1) entry of an order approving
28 the Joint Stipulation, conditionally certifying the Class, and granting the monetary relief set forth

herein; (2) entry of judgment on Plaintiff's alleged claims; and (3) discharge of Released Parties from liability for all Released Claims.

III. PROCEDURAL ISSUES.

A. Preliminary Approval.

Class Counsel will submit this Joint Stipulation to the Court with a Motion for Preliminary Approval of Class Action Settlement. Defendants will not oppose the Motion.

B. Settlement Administrator.

The Settlement Administrator will handle: (1) preparing, printing, and mailing simultaneously the Notice of Class Action Settlement in substantially the same form as the attached Exhibit 1 (the "Class Notice") in both English and Spanish; (2) receiving and reviewing any Opt-Outs; (3) calculating payments under the settlement; (4) handling inquiries from Class Members concerning the Class Notice; (5) resolving any Pay Period disputes; (6) providing weekly status reports to Defendants' counsels and Class Counsel regarding the mailings, ("Opt-Outs"), and settlement payments; (7) distributing settlement payments to Class Members and payment to other parties under the terms of this Joint Stipulation; (8) providing due diligence declarations for submission to the Court, as needed; (9) printing and providing Class Members and Plaintiff with tax forms as required under this Joint Stipulation and applicable law, and providing copies of the same to Defendants; (10) translating the Class Notice to Spanish; (11) sending, and/or responding to submissions of Opt-Outs, or contact information updates; and (12) such other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform.

The Settlement Administrator will skip trace and re-mail all returned, undeliverable mail within seven (7) days of receiving notice the mailing was undeliverable. The Settlement Administrator will also handle payments to Plaintiff for their Incentive Awards, payment of Class Counsel's attorney fees and costs as approved by the Court, and payment of PAGA penalties to the LWDA. The Settlement Administrator will also handle the distribution of any remaining amounts from uncashed checks in accordance with the procedures set forth below.

(See Section IV.F.) Settlement Administrator's Fees are to be paid from the Gross Settlement Amount.

C. Notice to Class Members.

Notice will be provided to Class Members as follows:

Within 30 calendar days of Preliminary Approval, Defendants will provide the Settlement Administrator with the following information about each Class Member: (1) name; (2) last known mailing address and telephone number; (3) Social Security Number; (4) dates of employment; and (5) total pay periods worked during the Class and PAGA Periods (collectively, "Class Data").

Within 14 calendar days after the Settlement Administrator's receipt of the Class Data, the Settlement Administrator will calculate the estimated payout to the individual Class Members based on the assumption that all Class Members participate in the Settlement, and it will mail the Notice Packet to such Class Members via first-class regular U.S. mail.

Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct any known or identifiable address changes. It will be conclusively presumed that the Class Member received the Class Notice if the Class Notice has not been returned within 30 days of mailing. If a new address is obtained by way of a returned Class Notice or otherwise, then the Settlement Administrator will promptly forward the original Class Notice to the updated address via first-class regular U.S. mail, along with a cover letter advising the class member that their opt out period (as described below) has been extended an additional fifteen (15) days from the remailing.

Upon completion of these steps by the Settlement Administrator, the Parties will be deemed to have satisfied their obligation to provide notice of the settlement to Class Members. Such persons will be bound by all terms of the Joint Stipulation (including the release) and the Court's order and final judgment, unless they validly Opt-Out of the Class.

Class Members who receive a re-mailed Class Notice shall have his/her opt out period extended an additional 15 days. All re-mailed Class Notices shall be

1 accompanied by a cover letter advising the Class Member that his/her “opt-out”
2 period has been extended 15 days on account of the re-mailing.)

3 **D. Procedure for Opting-Out of Class.**

4 Class Members who wish to exclude themselves from the Class must mail the Settlement
5 Administrator a signed and dated document requesting exclusion from the Class within 30
6 calendar days after the date the Class Notice was mailed (the “Class Member Exclusion
7 Deadline”), or as extended in the case of a re-mailed Class Notice (i.e., an additional fifteen (15)
8 days), unless the Court orders otherwise. All requests for exclusion must be made in writing,
9 indicate the Class Member’s first and last name, and employee identification number or last four
10 digits of the Class Member’s social security number, and indicate “I WISH TO BE EXCLUDED
11 FROM THE SETTLEMENT,” or words to that effect. All requests for exclusion must also be
12 signed by the Class Member, and must be submitted by postal mail. The delivery date is the
13 date the Class Member’s request for exclusion is deposited in the U.S. Mail as evidenced by the
14 postmark and shall govern the timeliness of the request for exclusion. If the postmark is illegible,
15 the timeliness of the request for exclusion shall be determined by the date the request for
16 exclusion was received by the Settlement Administrator.

17 A request to be excluded from the Class will be deemed valid only if the Class Member
18 completed, dated, and signed a document requesting exclusion by the Class Member Exclusion
19 Deadline.

20 Any Class Member who timely requests exclusion from the settlement will not be entitled
21 to recovery under the settlement and will not be bound by the settlement, judgment, or order in
22 this Action, except that they shall receive payment for release of their PAGA claim. Class
23 Members shall not have the right to exclude themselves from the PAGA portion of the settlement
24 if they are an Aggrieved Employee. Class Members who submit a timely request for exclusion
25 shall not be able to object, appeal, or comment on the settlement. Class Members who fail to
26 timely request exclusion from the settlement will be bound by all the terms of this Joint
27 Stipulation, and any judgment and order entered in the Action. The Settlement Administrator
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1 will provide counsel for the Parties with weekly updates about Class Members who submit
2 requests for exclusion.

3 In the event that more than five (5%) of Class Members timely request exclusion from
4 the settlement, Defendants may exercise their right to void the settlement by providing written
5 notice to Class counsel that it is exercising its right to void the settlement. In the event
6 Defendants exercise this right, they shall be responsible for all Settlement Administration Fees
7 incurred through the date that Defendants provides notice to Class Counsel of its intent to void
8 the settlement.

9 **E. Procedure for Disputing Pay Periods.**

10 The Settlement Administrator's determination of eligibility for, and the amounts of, any
11 settlement payment under this Joint Stipulation will be conclusive, final, and binding on all
12 Parties, including all Class Members. To dispute the number of pay periods with which he or
13 she has been credited, a Class Member must timely produce evidence to the Settlement
14 Administrator showing that the pay period information is inaccurate by the Class Member
15 Exclusion Deadline. The delivery date is deemed to be the date the dispute is deposited in the
16 U.S. Mail as evidenced by the postmark. Class Members shall have thirty (30) calendar days to
17 dispute the pay period information, or as extended in the case of a re-mailed Notice Packet (i.e.,
18 an additional fifteen (15) days). The Settlement Administrator shall decide the dispute after
19 notifying Class Counsel and Defendants' counsels of the dispute. Defendants' records will be
20 presumed correct, but the Settlement Administrator will evaluate the evidence submitted by the
21 Class Member and will make the final decision on the merits of the dispute.

22 **F. Procedure for Objecting to Settlement.**

23 Any Class Member who seeks to object to the settlement may serve a copy of the objection
24 to the Settlement Administrator. Any Class Member may also object by appearing either in
25 person or by attorney at the Final Approval Hearing. All written objections must be served
26 within thirty (30) calendar days of mailing of the Class Notice, or as extended in the case of a
27 re-mailed Class Notice (i.e., an additional fifteen (15) days). Neither the Parties nor their
28 respective counsel will solicit or otherwise encourage any Class Member, directly or indirectly,

to object to the Settlement, or appeal from the Judgment. The Settlement Administrator will provide counsel for the Parties with weekly updates about Class Members who object to the settlement.

G. Final Approval.

At the Final Approval Hearing, Class Counsel will move the Court for the entry of judgment, incorporating the Joint Stipulation. Class Counsel will seek approval of the Joint Stipulation as being fair, adequate, and reasonable to the Class Members. Class Counsel and Defendants' counsels will submit to the Court such pleadings and evidence as required for the Court's determination.

No later than thirty (30) calendar days before the Final Approval Hearing, the Settlement Administrator will serve on Class Counsel and Defendants' counsels, for filing with the Court in support of Plaintiff's motion for final approval of the settlement, a declaration of due diligence setting forth its compliance with its obligations under this Joint Stipulation.

IV. SETTLEMENT TERMS.

A. Gross Settlement Amount and Settlement Payments.

To settle the Released Claims in the Action, Defendant Drake Farms will pay the aggregate Gross Settlement Amount on an all-inclusive, non-reversionary basis. Except as required herein, Defendants will not be required to contribute additional sums to fund the settlement or otherwise resolve this action. All Class Members will be eligible to participate in the settlement. Class Members will receive a pro-rata share of the Net Settlement Amount under a pay period formula, as set forth below.

B. Increase in Gross Settlement Amount.

At of the time of mediation, Defendant estimated that Class Members worked approximately 7,000 pay periods during the Class Period. If the number of pay periods weeks worked by Class Members during the Class Period increase by more than 10% of 7,000 (or 7,700), the Class Period shall end as of the date the total number of pay periods reached 7,000 (as opposed to October 4, 2022.)

1 **C. Establishment of Settlement Fund Account & Funding of Gross Settlement**
2 **Amount**

3 Within seven (7) days of Class Counsel providing notice that the settlement has
4 preliminarily approved by the court, the Settlement Administrator will establish the Settlement
5 Fund Account in a non-interest bearing transaction account at a FDIC-insured institution with
6 at least one branch in California.

7 **D. Allocation of Settlement Proceeds.**

8 The Gross Settlement Amount is inclusive of and will be allocated as follows:

- 9 1. The Fee Award, which is the amount the Court awards to Class Counsel
10 for their attorney fees, in an amount not exceeding on third (\$83,250.00)
11 of the Gross Settlement Amount;
- 12 2. The Cost Award, which is the amount the Court awards to Class Counsel
13 for their reasonable litigation costs, in an amount not exceeding \$20,000.
- 14 3. The Incentive Award, which comprises the amount the Court awards to
15 the named Plaintiff as class representative, in an amount not exceeding
16 \$15,000;
- 17 4. The Settlement Administrator's Fees, as approved by the Court,
18 estimated at \$10,000;
- 19 5. PAGA penalties in an amount not to exceed \$25,000 (75% of which will
20 go to the LWDA and 25% to Aggrieved Employees.);
- 21 6. The Payout Fund, which is the total money available for payout to Class
22 Members who do not Opt Out, after deducting the above amounts;
- 23 7. Payment for release of the Class Released Claims shall be allocated as
24 follows: 66% as penalties and interest, and 34% as wages;
- 25 8. Payment for release of Class Members'/Aggrieved Employees' PAGA
26 claim shall be allocated as 100% penalties.
- 27 9. If the Court approves a lesser amount of any of the above-referenced
28 costs or penalties, the Payout Fund will increase proportionately.

1 No funds will revert to Defendants.

2 **E. Distribution of Settlement Proceeds.**

3 The Settlement Administrator will keep Defendants' counsels and Class Counsel apprised
4 of all distributions from the Settlement Fund Account. No person will have any claim against
5 Defendants, Defendants' counsels, Plaintiff, Class Counsel, or the Settlement Administrator
6 based on distributions and payments made under this Joint Stipulation. Distribution of the Gross
7 Settlement Amount will be as follows:

8 1. Initial Payment.

9 If the Effective Date is triggered, Defendant Drake Farms shall fund the Gross Settlement
10 Amount by depositing the same into the QSF within fifteen (15) days of the Effective Date being
11 triggered. The Settlement Administrator will pay the following amounts within fifteen (15) days
12 of the Gross Settlement Amount being fully funded by Defendant Drake Farms: (1) Fee Award,
13 the Cost Award, (2) the Incentive Award, (3) the payment to the LWDA, (4) the Settlement
14 Administrator's Fees, based on the amounts awarded by the Court based on the Order granting
15 final approval of the settlement. The remainder of the Gross Settlement Amount, known as the
16 Payout Fund or the Net Settlement Amount, will be calculated and distributed as set forth below.

17 2. Payout to Class Members.

18 The Settlement Administrator will calculate the individual settlement payments to Class
19 Members who do not submit valid Opt-Outs. These payments will be calculated by assigning a
20 certain dollar value to each pay period Class Members worked during the Class Period. The
21 dollar value of each pay period will be calculated by dividing the aggregate value of the Net
22 Settlement Amount by the total number of pay periods worked by the Class Members who do
23 not submit valid Opt-Outs during the Class Period. Partial pay periods will be rounded up to
24 the nearest full pay period. A Class Member who does not submit a valid Opt-Out will receive
25 an individual settlement payment determined by multiplying the number of pay periods worked
26 during the Class Period by the dollar value of each pay period.

27 The Settlement Administrator will calculate the PAGA payments to Aggrieved
28 Employees separately. These payments will be calculated by assigning a certain dollar value to

each pay period the Aggrieved Employee worked during the PAGA Period (or from September 10, 2020, through October 4, 2022). The dollar value of each pay period will be calculated by dividing the employees 25% portion of the PAGA Payment by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. Partial pay periods will be rounded up to the nearest full pay period. All Aggrieved Employees will receive an individual settlement payment determined by multiplying the number of pay periods worked during the PAGA Period by the dollar value of each pay period s/he worked during the PAGA Period.

The Class Members' individual settlement payments will be apportioned as follows: 34% as wages, 66% for interest and penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. Payment to Class Members who do not validly Opt Out may still be eligible to receive payment for their portion of the PAGA Payment if they are also an Aggrieved Employee. This payment shall be allocated 100% to penalties. The Settlement Administrator will issue the appropriate federal and state tax forms.

The individual settlement payments to Class Members will be paid within twenty-one (21) calendar days the Gross Settlement Fund is completely funded by Defendant Drake Farms, assuming the Effective Date is triggered. It is expressly understood and agreed that the receipt of individual settlement payments will not entitle any Class Member to additional or derivative compensation or benefits under any company bonus, contest, or other compensation or benefit plan or agreement in place during the Class Period, nor will it entitle any Class Member to any increased retirement, 401k benefits or matching benefits, or deferred compensation benefits. It is the intent of the Parties that the settlement payments provided for in this Joint Stipulation are the sole payments to be made by Defendants to the Class Members for the Released Claims, and that the Class Members are not entitled to any additional or derivative compensation or benefits as a result of having received the settlement payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).

F. I.R.S. Circular 230 Disclaimer

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

25 **G. Uncashed Checks.**

26 Settlement checks issued to Class Members will expire one hundred and eighty
27 (180) days from the date they are issued by the Settlement Administrator. Any check not cashed
28 within 180 calendar days will be void. The Settlement Administrator will provide the Parties

1 with a report of uncashed checks. Funds attributable to unclaimed, undeliverable, or expired
2 checks shall be paid to the designated *cy pres* recipient—Legal Aid at Work. The Parties and
3 their counsel confirm they do not have any relationship or interest in Legal Aid at Work and that
4 they believe the *cy pres* recipient promotes justice for all Californians pursuant to CCP section
5 384.

6
7 **H. Posting of Judgment**

8 The Settlement Administrator shall post the Order and Final Judgment on the Settlement
9 Administrator's website within seven (7) calendar days after entry of Order and Judgment. The
10 Settlement Administrator shall post a copy of the signed judgment for one hundred eighty (180)
11 calendar days on its website in compliance with Rule 3.771(b) of the California Rules of Court
12 in order to provide notice to the Class Members of this Judgment.

13 **I. Fee Award.**

14 Defendants will not oppose a request for attorney fees up to one third (\$83,250.00) of the
15 Gross Settlement Amount. Defendants will not be obligated to pay any attorney fees of Class
16 Counsel, Plaintiff, or Class Members above this amount. Class Counsel's attorney fee
17 application will be submitted and heard during the Final Approval Hearing. The Court will
18 determine the Fee Award. If the Court believes the Fee Award should be reduced, the other
19 terms of the settlement will remain in effect and any such reduction will not affect the remaining
20 terms, other than adjusting the Net Settlement Amount.

21 **J. Cost Award.**

22 Defendants will not oppose a request for reasonable litigation expenses not to exceed
23 \$[Amount] Defendants will not be obligated to pay any costs of Class Counsel, Plaintiff, or
24 Class Members above the amount approved by the Court or an amount not to exceed \$25,000
25 whichever amount is less. Class Counsel's request for costs must be submitted with its fee
26 application and heard during the Final Approval Hearing. The Court will determine the Cost
27 Award. If the Court believes the Cost Award should be reduced, the other terms of the
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1 settlement will remain in effect and any such reduction will not affect the remaining terms, other
2 than adjusting the Net Settlement Amount.

3 **K. Incentive Award.**

4 Defendants will not object to an Incentive Award of \$15,000 to Plaintiff. Defendants will
5 not be obligated to pay any Incentive Award in the Action above this amount. The Incentive
6 Award will be considered miscellaneous income. The Settlement Administrator will issue a
7 Form 1099, and any other tax forms, to Plaintiff relating to this award. The Court will determine
8 the Incentive Award. If the Court believes the Incentive Award should be reduced, the other
9 terms of the settlement will remain in effect and any such reduction will not affect the remaining
10 terms, other than adjusting the Net Settlement Amount.

11 Plaintiff acknowledges and agrees that Defendants and its attorneys have made no
12 representations or warranties regarding the tax consequences of payment of the Incentive
13 Award, and Plaintiff has not relied on any such representations or warranties. Plaintiff further
14 agrees to pay and bear sole responsibility for all taxes, liens, levies, encumbrances, interest, and
15 penalties that may be due or payable to any taxing authority as a result of payment of the
16 Incentive Award. Furthermore, Plaintiff agrees to defend and indemnify Defendants in
17 connection with any taxes, fines, interest, or penalties incurred as a result of any failure by
18 Plaintiff, to pay taxes due, if any, on the Incentive Award paid.

19 **L. Settlement Administrator Fees.**

20 The Parties agree settlement administration costs will be deducted from the Gross
21 Settlement Amount, subject to approval by the Court, estimated at \$10,000.

22 **M. PAGA Penalties.**

23 The Parties agree to allocate \$25,000.00 of the Gross Settlement Amount to the resolution
24 of all claims for penalties under PAGA during the PAGA Period. Under Labor Code § 2699(i),
25 75% of that amount will be paid to the LWDA. This amount will be paid by the Settlement
26 Administrator within seven (7) calendar days after receiving the Gross Settlement Amount from
27 Defendant Drake Farms. The other 25% will be paid to Aggrieved Employees. These penalties
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will be paid regardless of a Class Member Opting-Out or Objecting to the Settlement if that Class Member is also an Aggrieved Employee, provided that the Effective Date is triggered.

N. Fees and Costs.

Defendants will bear their own fees and costs. Class counsel shall also not be entitled to any attorneys' fees or costs other than as provided in this settlement.

V. RELEASE OF CLAIMS BY CLASS AND AGGRIEVED EMPLOYEES.

A. Release of Class Members' Claims.

Upon the payment of the Gross Settlement Fund, to them, Plaintiff and Class Members will be deemed to have released the Released Parties of and from all of the Released Claims during the Class Period. The Released Claims include all claims which Plaintiff, the Class, and/or any Class Member had, or may claim to have, against any of the Released Parties, that were alleged or could have been alleged in the FAC during the Class Period.

B. Release of Aggrieved Employees' Claims.

Upon the payment of the Gross Settlement Fund, Aggrieved Employees only will release the Released Parties of and from all of the PAGA Released Claims for the PAGA Period.

VI. RELEASE OF CLAIMS BY PLAINTIFF.

Upon the payment of the Gross Settlement Fund, Plaintiff will be deemed to have released the Released Parties of and from all of the Released Claims during the Class Period, as set forth above.

Plaintiff's release set forth herein also include a waiver of all rights under California Civil Code section 1542, which includes a release of all known and unknown claims against the Released Parties. Civil Code section 1542 provides:

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

Plaintiff will be deemed to have waived his rights under Civil Code section 1542, as set forth above.

1 **VII. RELEASE BETWEEN DEFENDANTS**

2 Upon the Effective Date being triggered and Defendant Drake Farms' funding of the Gross
3 Settlement Amount, Defendants mutually agree to waive and release any claims against each
4 other and their respective present and former officers, directors, employees, and agents, and
5 former officers, directors, employees, and agents related to or arising out of the above-
6 referenced action, including but not limited to, claims for indemnification (express or implied),
7 breach of contract, negligence, or gross negligence. The time period for this release shall extend
8 through the Effective Date, but does not apply to acts or omissions postdating the Effective Date.
9 However, this release does not apply to any ongoing obligations of Defendants to perform under
10 the Professional Services Agreement that are unrelated to the Action, or any other pending,
potential, or future claims that are independent of the Action.

11 **VIII. NULLIFICATION OF THE JOINT STIPULATION DUE TO NON APPROVAL**
12 **OF SETTLEMENT**

13 If (a) the Court should for any reason fails to approve this Joint Stipulation in the form
14 agreed to by the Parties, or (b) the Court should for any reason fail to enter preliminary or final
15 approval in the Action, or (c) the judgment is reversed, modified, or declared or rendered void,
16 or (d) if the LWDA takes any action (such as an investigation or its own administrative or civil
17 action against Defendants) in response to this settlement or a submission of the LWDA or
18 amended LWDA letter, this Joint Stipulation will be null and void, and neither this Joint
19 Stipulation, nor any of the related negotiations or proceedings, will be of any force or effect, and
20 all Parties will stand in the same position, without prejudice, as if the Joint Stipulation had not
21 been entered into or filed. Invalidation of any material portion of this Joint Stipulation will
22 invalidate this Joint Stipulation in its entirety, unless the Parties subsequently agree in writing
23 that the remaining provisions of the Joint Stipulation are to remain in full force and effect or
24 unless as otherwise set forth above. Furthermore, in the event that this Joint Stipulation is
25 deemed null and void, the amended LWDA letter and First Amended Complaint shall be deemed
26 withdrawn, and the Parties agree to cooperate with each other to effectuate the withdrawal of
27 these documents. Moreover, Defendants do not waive their defenses to the amended LWDA
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letter or the First Amended Complaint by agreeing to their filing/submission for settlement purposes only.

IX. STAY OF ACTION PENDING APPROVAL OF SETTLEMENT

Pending approval of the settlement, all discovery, litigation (including enforcement of motions) shall be stayed, and all litigation and discovery deadlines shall be tolled pending approval. The Parties also agree that all discovery, litigation (including enforcement of motions) shall be stayed during the time period from the date Plaintiff files the motion for preliminary approval of settlement until two weeks after the Court's denial of either preliminary approval or final approval of the settlement. However, the Parties agree that in the event that either preliminary or final approval is denied, either Party may terminate the stay by providing written notice within three (3) business days of their intent to terminate the stay.

X. DUTIES OF THE PARTIES.

a. Mutual Full Cooperation.

The Parties agree to cooperate to accomplish and implement the terms of this Joint Stipulation. Such cooperation will include, but is not necessarily limited to, execution of such other documents and taking such other actions as may be reasonably necessary to fulfill the terms of this Joint Stipulation. The Parties will use their best efforts, including all efforts contemplated by this Joint Stipulation and any other efforts that may become necessary by court order, or otherwise, to effectuate this Joint Stipulation and the terms set forth herein. As soon as practicable after execution of this Joint Stipulation, Class Counsel, with the cooperation of Defendants and their counsel, will try to secure Preliminary Approval and Final Approval.

b. Duty to Support and Defend the Settlement.

The Parties agree the settlement is fair, adequate, and reasonable and will so represent to the Court. The Parties agree to abide by all terms of the Joint Stipulation in good faith and to support the Joint Stipulation fully, and to use their best efforts to defend this settlement from any legal challenge, whether by appeal or collateral attack.

XI. MISCELLANEOUS PROVISIONS.

a. No Media Comments of Publicity.

1 If contacted by the media, the Parties and Class Counsel will merely inform them that
2 the case has been resolved, and refer them to the public filings. In addition, there shall be no
3 public statements to the media or press releases with regard to the Action or the terms of this
4 Joint Stipulation.

5 **b. Waiver of Appeals.**

6 The Parties and Class Members agree to waive any appellate rights; provided, however,
7 Plaintiff may appeal any reduction in the attorney fees and/or cost award.

8 **c. No Admission of Liability.**

9 This Joint Stipulation is not an admission of liability by Defendants or any of the Released
10 Parties.

11 **d. Non-Disparagement.**

12 Plaintiff agrees not to publicly disparage Defendants or any of the Released Parties.
13 Plaintiff and Class Counsel also agree not to publish this settlement to the media, or on Class
14 Counsel's law firm marketing materials, including Class Counsel's law firm website.

15 **e. Construction.**

16 The Parties agree this Joint Stipulation resulted from lengthy, intensive, arm's-length
17 negotiations, and it is not to be construed for or against any party for any reason.

18 **f. Choice of Law.**

19 This Joint Stipulation is intended to and will be governed by the laws of California,
20 without regard to conflicts of law principles. The Court will retain continuing jurisdiction to
21 enforce the settlement.

22 **g. Captions and Interpretations.**

23 Paragraphs, titles, or captions contained herein are inserted as a matter of convenience
24 and for reference only, and in no way define, limit, extend, or describe the scope of this Joint
25 Stipulation or any provision thereof.

26 **h. Modifications.**

1 This Joint Stipulation may not be changed, altered, or modified, except in writing signed
2 by counsel for the Parties and approved by the Court. This Joint Stipulation may not be
3 discharged except by performance under its terms or by a writing signed by the Parties.

4 **i. Integration Clause.**

5 All prior or contemporaneous agreements, understandings, representations, and
6 statements, whether oral or written, between the Parties are merged herein. No rights under this
7 Joint Stipulation may be waived except in writing. However, if there is a conflict between the
8 terms of this Joint Stipulation and the Memorandum of Understanding entered into between the
9 Parties, the latter shall control.

10 **j. Successors and Assigns.**

11 This Joint Stipulation will be binding upon and inure to the benefit of the Parties and their
12 respective heirs, trustees, executors, administrators, successors, and assigns.

13 **k. Class Counsel Signatories.**

14 Because the Class Members are so numerous, the Parties agree it is impossible or
15 impractical to have each Class Member sign this Joint Stipulation. This Joint Stipulation may
16 be executed on behalf of the Class by Class Counsel and Plaintiff.

17 **l. Plaintiff's Waiver of Right to be Excluded or Object.**

18 Plaintiff agrees not to Opt-Out of the Class and agrees not to object to any terms of this
19 Joint Stipulation. Non-compliance by Plaintiff with this paragraph will be void and of no force
20 or effect. Any such request for exclusion or objection by Plaintiff will therefore be void and of
21 no force or effect.

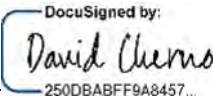
22 **m. Execution in Counterparts.**

23 This Joint Stipulation will become effective upon its execution by all of the undersigned.
24 The Parties may execute this Joint Stipulation in counterparts, and execution of counterparts
25 will have the same force and effect as if all Parties signed the same instrument.

26
27 *[Signatures on Next Page]*
28

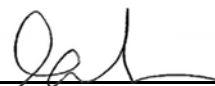
PLAINTIFF AND CLASS COUNSEL

Dated: 5/3/2023

By:  _____
David Chernov

Dated: 5/3/2023

JAMES HAWKINS APLC

By:  _____
James R. Hawkins, Esq.
Gregory Mauro, Esq.
Michael Calvo, Esq.
Jeanne Sarmiento, Esq.
Attorneys for Plaintiff,
DAVID CHERNO on his own and
behalf of all others similarly situated

DEFENDANTs AND DEFENDANT'S COUNSELS

Dated:

DRAKE FARMS TRUCKING, INC.

By: _____
Deanna Drake
Barry Drake
Director/Owner of Drake Farms
Trucking, Inc. to sign on behalf of
Defendant DRAKE FARMS
TRUCKING, INC.

Dated:

GORDON REES SCULLY MANSUKHANI, LLP

By: _____
Debra E. Meppen, Esq.
Peter Choi, Esq.

Attorneys for Defendant,
DRAKE FARMS TRUCKING, INC.

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Dated: 05/04/23

PEOPLEASE, LLC

By: Chrystal Temaul
Chrystal Temaul
Director for Peoplease, LLC. to sign on
behalf of Defendant PEOPLEASE,
LLC.

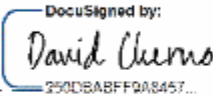
Dated: 05/04/23

FISHER & PHILLIPS, LLP

By: Spencer Waldron
Spencer Waldron, Esq.
Jonathan Russell Blakey, Esq.
Attorneys for Defendant,
PEOPLEASE, LLC.

PLAINTIFF AND CLASS COUNSEL

Dated: 5/3/2023

By: 
David Cherno

Dated: 5/3/2023

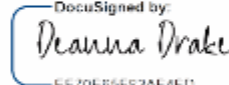
JAMES HAWKINS APLC

By: 
James R. Hawkins, Esq.
Gregory Mauro, Esq.
Michael Calvo, Esq.
Jeanne Sarmiento, Esq.
Attorneys for Plaintiff,
DAVID CHERNO on his own and
behalf of all others similarly situated

DEFENDANTs AND DEFENDANT'S COUNSELS

Dated: May 30, 2023 | 11:01 AM PDT

DRAKE FARMS TRUCKING, INC.

By: 
Deanna Drake
Barry Drake
Director/Owner of Drake Farms
Trucking, Inc. to sign on behalf of
Defendant DRAKE FARMS
TRUCKING, INC.

Dated:

GORDON REES SCULLY MANSUKHAN

By: 
Debra E. Meppen, Esq.
Peter Choi, Esq.

Attorneys for Defendant,
DRAKE FARMS TRUCKING, INC.

EXHIBIT 1

NOTICE OF CLASS ACTION SETTLEMENT

David Cherno v. Peoplelease LLC; Drake Farms Trucking, Inc.
San Luis Obispo County Superior Court, Case Nos. 21CV-0153 and 21CV-0651

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

If you are or were employed by Drake Farms Trucking, Inc. as a non-exempt truck driver employee in California at any time during the period from September 10, 2017, through October 4, 2022, this class action settlement may affect your rights.

Why should you read this Notice?

A proposed settlement (“Settlement”) has been reached to settle the claims against Drake Farms, Inc. (“Drake Farms”) and Peoplelease LLC (“Peoplelease”) (collectively referred to herein as “Defendants”) as alleged in the lawsuits styled *David Cherno v. Peoplelease LLC; Drake Farms Trucking, Inc.* Superior Court of the State of California, County of San Luis Obispo, Case Nos. 21CV-0153 and 21CV-0651 (collectively referred to herein as the “Action”).

Drake Farms’ records show that you worked as a non-exempt truck driver employee in California during the period from September 10, 2017, through October 4, 2022 (the “Class Period”), and therefore, you are a Class Member in the Action. The purpose of this Notice of Class Action Settlement (“Notice”) is to describe the Action and the Settlement, and to inform you of your rights and options in connection with the Settlement.

A hearing will be held to determine whether the Settlement is fair, reasonable, and adequate (“Final Approval Hearing”). The Final Approval Hearing will be held on [Date] at [Time] before the Honorable Rita C. Federman in Department 2 of the San Luis Obispo County Superior Court Courthouse, located at 1050 Monterey Street, San Luis Obispo, California 93408.

As a Class Member, you are eligible to receive a payment under the Settlement, and unless you timely submit an Exclusion Form, you will be bound by the release of claims described in this Notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING	If you do nothing, you will remain a Class Member and you will receive a payment under the Settlement. You will also give up rights to pursue a separate legal action against Defendants for the claims alleged in the Action, as explained more fully below. Your estimated Individual Settlement Payment is: [redacted] based on [redacted] pay periods worked during the Class Period. Your estimated Individual PAGA Payment is: [redacted] based on [redacted] pay periods worked during the PAGA Period.
EXCLUDE YOURSELF FROM THE SETTLEMENT	You have the option to exclude yourself from the Action, you will not release the Class Released Claims (other than for violations of the California’s Private Attorney General Act of 2004, as discussed below). If you choose to exclude yourself from the Settlement, you will not be paid any money for release of the claims alleged in the Action, other than for release of your claim for violations of the California’s Private Attorney General Act of 2004. If you choose to exclude yourself from the Settlement, you must timely complete and submit the Exclusion Form that is enclosed with this Notice.
OBJECT	To object to the Settlement, you must submit a letter to the Settlement Administrator about why you object to the Settlement. This option is only available if you do not exclude yourself from the Settlement.

QUESTIONS? CALL [Phone Number]

Who is affected by the Settlement?

The Court has certified the following class (“Class”) for settlement purposes: All current and former non-exempt employees who worked for Drake Farms as truck drivers in California and/or were issued wage statements by Peoplease, to work at Drake Farm as truck drivers in California, during the time period of September 10, 2017, through October 4, 2022 (i.e., the Class Period). According to Defendants’ records, you are a member of the Class (“Class Member”).

What is this case about?

Plaintiff David Chernio (“Plaintiff”) is a former employee of Drake Farms who commenced this Action by filing the complaint in Case No. 21CV-0153 against Defendants on September 10, 2021 in the Superior Court of the State of California, County of San Luis Obispo (“class action complaint”). Plaintiff alleges Defendants are liable to Class Members for their failure to pay wages, failure to timely pay wages, failure to provide accurate itemized wage statements, failure to provide a day of rest as required by the California Labor Code sections 551 and 552, failure to indemnify business expenses, and violations of California’s Business & Professions Code section 17200, et seq.

On November 19, 2021, Plaintiff filed a complaint in Case No. 21CV-0651 against Defendants alleging violations of the California’s Private Attorney General Act of 2004 based on the same alleged wage and hour violations alleged in the class action complaint

Defendants deny all liability to Plaintiff’s claims raised in the Action and are confident that they have strong legal and factual defenses to these claims. Defendants also recognize the risks and costs associated with litigation. Defendants contend that Plaintiff’s claims do not have merit and do not meet the requirements for class certification and cannot be viably litigated on a representative basis.

The Court has not found in favor of either Plaintiff or Defendants, and has not made any ruling on the merits of Plaintiff’s claims or Defendants’ defenses. This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendants (the “Parties”) and is not an admission of liability on the part of Defendants. Both sides agree that, in light of the risks and expenses associated with continued litigation, this Settlement is fair, adequate and reasonable. Plaintiff also believes that this Settlement is in the best interests of all Class Members.

What is a class action and who is involved?

In a class action lawsuit, one or more people called a “Class Representative” sues on behalf of other people who have similar claims. The Class Representative(s) and all of the people whose claims are being pursued in the case are called the “Class” or “Class Members.” One court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

Do I have a lawyer in this case?

On [Date], the Court granted preliminary approval of the Settlement. At that time, the Court also preliminarily approved the law firm of James Hawkins APLC to serve as counsel for Plaintiff and the Class (“Class Counsel”). Class Counsel’s contact information is as follows:

JAMES HAWKINS APLC
James R. Hawkins, Esq.,
Gregory Mauro, Esq.
9880 Research Drive, Suite 200
Irvine, California 92618

Telephone: (949) 387-7200 / Facsimile: (949) 387-6676

What are the Settlement terms?

Subject to approval by the Court, the Settlement provides that Drake Farms will pay a total amount of **\$250,000.00** (the “Gross Settlement Amount”) in order to resolve the claims in the Action. This Gross Settlement Amount includes an award of reasonable attorneys’ fees to Class Counsel (not to exceed **\$83,250.00**), reimbursement of Class Counsel’s litigation costs and expenses (not to exceed **\$25,000.00**), a service payment to the Class Representative called an Incentive Award (not to exceed **\$15,000.00**), settlement administration costs (estimated to not exceed **\$10,000.00**), payment to the California Labor and Workforce Development Agency (“LWDA”) for its share of the PAGA penalties released in the Settlement (in the amount of **\$18,750.00**),

\$6,250.00) payment for release of Class Members' PAGA claims, payments to Class Members for release of the Class Released Claims. The Gross Settlement Amount also includes the employer's share of payroll taxes with respect to the portion of the Individual Settlement Payments that is allocated as wage-related damages.

Payments to Participating Class Members: The "Net Settlement Amount" means the Gross Settlement Amount, less the Court-approved amounts for attorneys' fees and costs, Incentive Award to the Class Representative, settlement administration costs, and the PAGA payment to the LWDA.

Each Class Member who does not submit a timely and valid request for exclusion will receive a share of the Net Settlement Amount (an "Individual Settlement Payment") which, to the extent possible, will be based upon the number of pay periods that he or she actually performed work for Defendant in California during the Class Period ("Compensable Pay Periods"), as follows: First, the Settlement Administrator will divide the Net Settlement Amount by the aggregate number of Compensable Pay Periods for all Class Members, resulting in a value for each pay period worked by Class Members ("Class Pay Period Value"). The Settlement Administrator will then take the number of Compensable Pay Periods worked by each Class Member and multiply it by the Class Pay Period Value. This calculation will yield the amount of each Class Member's estimated Individual Settlement Payment for releasing the claims alleged in the Action, other than Class Members' PAGA claims.

Payment for release of Class Members' PAGA claim ("Individual PAGA Payment") shall be calculated by dividing the total amount of the Twenty Five Thousand Dollars that is allocated for release of Class Members' PAGA claims, or **\$6,250**, by the total number of aggregate number of pay periods worked by all Class Members during the PAGA Period of September 10, 2022 through October 4, 2022, resulting in a value for each pay period worked by Class Members during the PAGA Period ("PAGA Pay Period Value"). The Settlement Administrator will then take the number of pay periods worked by each Class Member during the PAGA Period and multiply it by the PAGA Pay Period Value. This calculation will yield the amount of each Class Member's estimated Individual PAGA Payment for releasing their PAGA claims.

Your estimated number of pay periods worked during the Class and PAGA Periods and your estimated Individual Settlement Payment and Individual PAGA Payment are listed on the first page of this Notice.

Each Class Member's Individual Settlement Payment will be allocated as follows: 34% wages, subject to all applicable tax withholdings (the "wage portion"); 66% as non-wage penalties and interest, not subject to payroll tax withholdings. The wage portion of each Individual Settlement Payment will be subject to payroll taxes and withholdings and will be reported on an IRS Form W-2.

Class Member's Individual PAGA Payment(s) will be allocated 100% to penalties and will not be subject to payroll taxes or withholdings, and will be reported on an IRS Form 1099.

If a Participating Class Member fails to cash a check for his or her Individual Settlement Payment or Individual PAGA Payment within 180 calendar days after the check is issued, the check will be voided and, shall be distributed to Legal Aid at Work.

None of the Parties or attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

What claims are being released by the proposed Settlement?

Plaintiff and Class Members who have not excluded themselves from the Settlement will be deemed to have released Defendants and their and their present and former officers, directors, owners, agents, assigns, successors, employees, partners, shareholders, parent entities, subsidiaries, affiliates, entities under whose name they conduct business, predecessors, attorneys, or legal representative ("Released Parties") from any and all federal, state and local demands, rights, liabilities, claims and/or causes of action, known or unknown, that are alleged in the Action, or could have been reasonably alleged in the Action based on the facts alleged in the Action for Defendants' alleged failure to pay minimum and regular wages (including for off-the-clock work), pay timely wages during employment, pay all earned and accrued wages to discharged/separated employees, furnish accurate itemized wage statements, maintain required payroll records, and indemnify employees for business expenses in violation of Labor Code Sections 201-204, 210, 226, 226.2, 226.3, 551, 552, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802, Business & Professions Code section 17200, et seq. (collectively the "Released claims").

Plaintiff and Class Members, however, will release their PAGA claims premised on the aforementioned Labor Code sections, whether or not they timely request exclusion from the Settlement provided they worked during the PAGA Period.

What are my options in this matter?

You have two options under this Settlement. You may: (A) participate in the Settlement and receive a payment for release of your claims where are alleged in the Action, including your PAGA claim; or (B) exclude yourself from (i.e., “opt out” of) the Settlement. If you choose option (A), you may also object to the Settlement, as explained below. If choose option (B), you will still receive payment for release of your PAGA claim, but will not receive payment for release of the other Released Claims alleged in the Action.

OPTION A. Remain in the Settlement. If you wish to remain in the Settlement and be eligible to receive a payment under the Settlement, you do not need to take any action. If you remain in the Settlement, you will release the Released Claims, as described above.

OPTION B. If you do not want to be bound by the Settlement. If you do not want to be part of the Settlement, you must complete and sign a form indicating that you wish to be excluded from the Settlement and mail it to the Settlement Administrator at the following address, postmarked no later than [Date]: *David Cherno v. Peoplease LLC; Drake Farms Trucking, Inc.* Settlement, c/o [Settlement Administrator Address].

All requests for exclusion must be made in writing, indicate the Class Member’s first and last name, and employee identification number or last four digits of the Class Member’s social security number, and indicate “I WISH TO BE EXCLUDED FROM THE SETTLEMENT,” or words to that effect. All requests for exclusion must also be signed by the Class Member, and must be submitted by postal mail.

If you do not timely submit a valid request for exclusion, your request will be rejected, you will remain in the Settlement, and you will be bound by the release of the Released Claims and all other Settlement terms. If you timely complete and submit an Exclusion Form, you will not release the Released Claims (other than your PAGA claim) and will only be paid for release of your PAGA claim and not the other Released Claims. If you request exclusion from this Settlement, you will also not be permitted to assert an objection to the Settlement.

Objecting to the Settlement: If you believe the Settlement is not fair, reasonable or adequate in any way, you may object to it. To object, you must mail a written statement of objection to the Settlement Administrator at the following address, postmarked no later than [Date]: *David Cherno v. Peoplease LLC; Drake Farms Trucking, Inc., c/o [Settlement Administrator Address]*. You can also hire an attorney at your own expense to represent you in your objection. To be valid, any objection must contain: (1) contain the Class Member’s full name, address, dates of employment, and the last four digits of his or her Social Security number; (2) contain the case name and number; (3) be signed by the Class Member or his or her legal representative; (4) clearly and concisely state each specific objection and any legal and factual support for the objection; (5) indicate whether the Class Member intends to appear at the Final Approval Hearing; (6) be mailed to the Settlement Administrator at [Settlement Administrator Address], postmarked no later than the Response Deadline; and (6) if the Class Member is represented by Counsel, contain the name and contact information of his or her counsel. **You cannot object to the Settlement if you request exclusion from the Settlement. Even if you submit an objection, you will be bound by Settlement, including the Released Claims, unless the Settlement is not finally approved by the Court.**

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel’s request for attorneys’ fees and costs, the service payment to the Class Representative, the settlement administration costs, and the PAGA penalties on [Date] at [Time] in Department Department 2 of the San Luis Obispo County Superior Court Courthouse, located at 1050 Monterey Street, San Luis Obispo, California 93408. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing, but you may do so at your own expense.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are contained in the Stipulation of Class Action Settlement that (“Settlement Agreement”) is on file with the Court. The pleadings and other records in this matter, including a complete copy of the Settlement Agreement, may be examined during regular court hours at the Civil Records Department of the San Luis Superior Court. More information and Court documents are also available on the case website, at [Email Address]. Any questions regarding this Notice should be directed to the Class Counsel, whose contact information is listed on page 2 of this Notice. For more information, you may also call the Settlement Administrator toll-free at [Phone Number].

What should I do if my address changes?

If you need to update your contact information, please promptly contact the Settlement Administrator toll-free at 1 [Phone Number]. This will ensure that you receive further notices about the Settlement and that you receive your Individual Settlement Award if the Settlement is approved by the Court.

**PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE
BY ORDER OF THE LOS ANGELES SUPERIOR COURT**

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QUESTIONS? CALL [Phone Number]