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19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

20 **COUNTY OF ORANGE**

21 MARTHA CERVANTES AS SUCCESSOR IN
22 INTEREST FOR JUAN CENTENO, JAVIER
23 VASQUEZ, AND LUIS GONZALEZ, on behalf
24 of themselves and for all similarly situated
25 persons, and the general public;

26 Plaintiffs,

27 v.

28 RONCO PLASTICS INC.; and DOES 1 to 50,
inclusive,

Defendants.

CASE NO. 30-2022-01241548-CU-WT-CXC

*[Assigned for all purposes to the Honorable,
Randall J. Sherman, Dep. CX105]*

**Amended Joint Stipulation re: Class Action
Settlement**

Action Filed: January 20, 2022
Trial Date: None Set

1 This Joint Stipulation Re: Class Action Settlement (hereinafter “Stipulation” or “Settlement
2 Agreement”) is made and entered into by: (1) Plaintiffs Martha Cervantes as successor in interest for
3 Juan Centeno, Javier Vasquez, And Luis Gonzalez, (“Plaintiff”), individually and in their
4 representative capacities on behalf of the Settlement Class, as defined below, and as a private attorney
5 general on behalf of the State of California; and (2) Defendant Ronco Plastics Inc. (“Defendant”). This
6 Settlement Agreement is subject to the approval of the Court and is made for the sole purpose of
7 attempting to consummate settlement of the action on a class-wide basis subject to the following terms
8 and conditions. This Settlement shall be binding on Plaintiffs and the class he purports to represent,
9 on all aggrieved employees, Defendant, and on their respective counsel, subject to the terms and
10 conditions hereof and the approval of the Court.

11 THE PARTIES STIPULATE AND AGREE as follows:

12 **1. DEFINITIONS**

13 As used in this Settlement Agreement, the following terms shall have the meanings specified
14 below. To the extent terms or phrases used in this Settlement Agreement are not specifically defined
15 below, but are defined elsewhere in this Settlement Agreement, they are incorporated by reference into
16 this definition section.

17 **1. Action**

18 “Action” shall mean the following civil action: Martha Cervantes as successor in interest for
19 Juan Centeno, Javier Vasquez and Luis Gonzalez et al. *v. Ronco Plastics Inc.*, case number 30-2022-
20 01241548-CU-WT-CXC, in the Orange County Superior Court filed on January 22, 2022.

21 **2. Administrative Expenses**

22 “Administrative Expenses” shall include all costs and expenses associated with and paid to the
23 third-party settlement administrator, which are anticipated not to exceed \$5,000.

24 **3. Applicable Wage Orders**

25 “Applicable Wage Orders” shall mean the California Industrial Welfare Commission (“IWC”)
26 Wage Orders applicable to the facts of this case, including IWC Wage Orders 4-2001 and others that
27 may be applicable. (Cal. Code of Regs., tit. 8, §§ 11070, 11090.)
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“Claims” shall mean the claims asserted in the Action.

5. Class Attorney Fees and Expenses

“Class Attorney Fees and Expenses” shall mean the portion of the Gross Settlement Amount for which Class Counsel may apply for their attorney fees and litigation expenses. The amount of Class Attorney Fees and Expenses shall include all past and future attorneys’ fees and costs incurred in the Action – including, without limitation, all time expended by Class Counsel in the Actions or in defending the Settlement and securing final approval of the Settlement (including any appeals thereof). Defendant agrees not to oppose a request for Class Attorney Fees and Expenses up to 1/3 of the Gross Settlement Amount (i.e., \$41,666.66), as approved by the Court, and an award of costs and expenses shall be up to an additional \$9,000.00.

6. Class Counsel

“Class Counsel” shall mean Farrah Mirabel Esq. of Law Offices of Farrah Mirabel P.C., and Amir Seyedfarshi of Employment Rights Law Group APC.

7. Class Member

“Class Member” shall mean any person who is a prospective member of the Settlement Class, or, if such person is incompetent or deceased, the person’s legal guardian, executor, heir, or successor-in-interest.

8. Class Notice

“Class Notice” shall mean the *Notice of Proposed Class Action Settlement and Hearing Date for Court Approval*, as set forth in the form of **Exhibit 1** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class Members along with the Share Form.

9. Class Participants

“Class Participants” shall mean all Class Members who do not timely request exclusion from the Class Settlement.

10. Class Period

“Class Period” shall mean the period from January 22, 2018 through July 1, 2022.

1 **11. Class Representative**

2 “Class Representative” shall mean Plaintiffs Martha Cervantes as successor in interest for Juan
3 Centeno, Javier Vasquez, And Luis Gonzalez.

4 **12. Class Settlement**

5 “Class Settlement” shall mean the settlement embodied in this Settlement Agreement, which is
6 subject to Court approval.

7 **13. Complaint**

8 “Complaint” shall mean the Complaint filed in the Action.

9 **14. Court**

10 “Court” shall mean the Orange County Superior Court, before whom the Action is currently
11 pending.

12 **15. Defendant**

13 “Defendant” shall mean Defendant Ronco Plastics Inc.

14 **16. Defense Counsel**

15 “Defense Counsel” shall refer to Theodore E. Bacon of Alvarado Smith, APC located at 633
16 W. Fifth Street, Suite 900, Los Angeles, CA 90071.

17 **17. Effective Date**

18 The Court’s Judgment shall become final on the Effective Date. “Effective Date” shall be the
19 date when all of the following events have occurred: (a) this Settlement Agreement has been executed
20 by all Parties and by Class Counsel and Defense Counsel; (b) the Court has given preliminary approval
21 to the Class Settlement; (c) notice has been given to the Settlement Class providing them with an
22 opportunity to request exclusion from the Class Settlement; (d) the Court has held a Final Approval
23 and Fairness Hearing and entered a final order and judgment certifying the Settlement Class and
24 approving this Settlement Agreement; and (e) the later of the following events: (i) the expiration of the
25 period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement has
26 elapsed without any appeal, writ, or other appellate proceeding having been filed; (ii) the dismissal of
27 any appeal, writ, or other appellate proceeding opposing the Class Settlement with no right to pursue
28 further remedies or relief; or (iii) any appeal, writ, or the issuance of such other final appellate order

1 upholding the Court’s final order with no right to pursue further remedies or relief. In this regard, it is
2 the intention of the Parties that the Class Settlement shall not become effective until the Court’s order
3 approving the Class Settlement is completely final and there is no further recourse by an appellant or
4 objector who seeks to contest the Class Settlement. In the event no objections are filed, the Effective
5 Date shall be after steps (a) through (d) are completed (i.e., the date that the court has entered a final
6 order and judgment certifying the Settlement Class and approving this Settlement Agreement).

7 **18. Employee’s Taxes and Required Withholding**

8 “Employee’s Taxes and Required Withholding” shall mean the employee’s share of any and all
9 applicable federal, state, or local payroll taxes, including those collected under authority of the Federal
10 Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and/or the State
11 Unemployment Tax Act (SUTA) on the portion of any Class Participant’s Individual Settlement
12 Amount that constitutes wages. The Employee’s Taxes and Required Withholdings will be withheld
13 from and paid out of the Net Settlement Amount.

14 **19. Employer’s Taxes**

15 “Employer’s Taxes” shall mean and refer to Defendant’s share of payroll taxes (e.g.,
16 Unemployment Insurance, Employment Training Tax, Social Security, and Medicare taxes) that is
17 owed on the portion of any Class Participant’s Individual Settlement Amount that constitutes wages.
18 The Employer’s Taxes shall be separately paid by Defendant and shall not be paid from the Gross
19 Settlement Amount or Net Settlement Amount.

20 **20. Final Approval and Fairness Hearing**

21 “Final Approval and Fairness Hearing” shall mean the final hearing before the Court to finally
22 approve the Settlement as fair, reasonable, and adequate.

23 **21. Gross Settlement Amount**

24 “Gross Settlement Amount” is the agreed upon non-reversionary settlement amount totaling
25 \$125,000.00 to be paid by Defendant in full settlement of the Released Claims asserted in this case,
26 inclusive of the Administrative Expenses, the Employee’s Taxes and Required Withholdings, the Class
27 Attorney Fees and Expenses, the Incentive Award, and PAGA Payment and all other amounts other
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1 than the Employer's Taxes defined above. This is the maximum possible amount that may be paid by
2 Defendant to resolve the Action, with the exception of the Employer's Taxes defined above. Defendant
3 shall separately pay their share of the Employer's Taxes in addition to the Gross Settlement Amount
4 on the portion of each Individual Settlement Amount allocated as wages.

5 **22. Hearing on Preliminary Approval**

6 "Hearing on Preliminary Approval" shall mean the hearing held on the motion for preliminary
7 approval of the Class Settlement.

8 **23. Incentive Award**

9 "Incentive Award" shall mean any additional monetary payment provided to the Class
10 Representatives for their efforts and risks on behalf of the Settlement Class in this Action.

11 **24. Individual Settlement Amount**

12 "Individual Settlement Amount" shall mean a Class Participant's share of the Net Settlement
13 Amount, as further detailed in Paragraphs 7.2 and 7.3 below.

14 **25. Net Settlement Amount**

15 "Net Settlement Amount" shall mean the Gross Settlement Amount after all Court-approved
16 deductions for Administrative Expenses; Class Attorney Fees and Expenses; and Plaintiff's Incentive
17 Award and PAGA Payment. The Net Settlement Amount is the maximum amount that will be available
18 for distribution to Class Participants.

19 **26. Opt Out**

20 "Opt Out" shall refer to the process of submitting a timely and valid request exclusion from the
21 Class Settlement in accordance with the terms of the Class Notice and no later than the Response
22 Deadline, as described in Paragraph 6.5 below.

23 **27. Opt-Outs**

24 "Opt-Outs" shall mean all persons who timely and validly request exclusion from the Class
25 Settlement in accordance with the terms of the Class Notice and no later than the Response Deadline,
26 as described in Paragraph 6.5 below.

1 **28. Languages in Class Notice:**

2 The Class notice and shared forms will be disseminated in English and Spanish. English and
3 Spanish are the only languages spoken by Class members.

4 **29. PAGA Payment**

5 “PAGA Payment” means the penalties pursuant to PAGA that the Parties have agreed is a
6 reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is \$6,000.00.
7 The PAGA Payment is to be deducted from the Gross Settlement Amount. The PAGA Payment is to
8 be approved by the Court pursuant to Labor Code section 2699 and is to be distributed as follows:
9 seventy-five percent (75%) (i.e., \$4,500.00) to the LWDA and twenty-five percent (25%) (i.e.,
10 \$1,500.00) to the PAGA Settlement Class. Class Counsel shall give timely notice of this Settlement
11 Agreement to the LWDA pursuant to Labor Code section 2699, subdivision (l)(2).

12 **30. PAGA Period**

13 “PAGA Period” shall mean the period from October 26, 2020, through July 1, 2022.

14 **31. PAGA Settlement Class**

15 “PAGA Settlement Class” shall mean all individuals who worked for Defendant in California
16 as a non-exempt employee during the PAGA Period.

17 **32. Parties**

18 “Parties” shall mean Plaintiffs and Defendant.

19 **33. Plaintiff**

20 “Plaintiffs” shall mean Plaintiffs Martha Cervantes as successor in interest for Juan Centeno,
21 Javier Vasquez, And Luis Gonzalez.

22 **34. Preliminary Approval Date**

23 “Preliminary Approval Date” shall mean the date upon which the Court enters an order
24 preliminarily approving this Settlement Agreement.

25 **35. Released Claims**

26 All Class Members who do not opt out of the Settlement will be bound by a release of all claims
27 and causes of action falling within the definition of “Released Claims” (below). The scope of the release
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1 is limited to the Released Claims. Plaintiffs and the Class Participants may hereafter discover facts or
2 legal arguments in addition to or different from those they now know or currently believe to be true
3 with respect to the claims, causes of action and legal theories of recovery in this Action. Regardless,
4 the discovery of new facts or legal arguments shall in no way limit the scope or definition of the
5 Released Claims, and by virtue of this Agreement, Plaintiffs and the Class Participants shall be deemed
6 to have, and by operation of the final judgment approved by the Court, shall have, fully, finally, and
7 forever settled and released all of the Released Claims. The parties understand and specifically agree
8 that the scope of the release described in this Paragraph is a material part of the consideration for this
9 Agreement; was critical in justifying the agreed upon economic value of this settlement and without it
10 Defendant would not have agreed to the consideration provided; and is narrowly drafted and necessary
11 to ensure that Defendant is obtaining peace of mind regarding the resolution of claims that were or
12 could have been alleged based on the facts, causes of action, and legal theories contained in Plaintiff's
13 Complaint.

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15 The "Released Claims" are those claims alleged in the operative Complaint, or that reasonably
16 could have been alleged based on the facts and claims asserted in the Complaint, and arising during
17 the Class Release Period, specifically including, claims under Labor Code sections 226, 226.7, 203,
18 204, 210, 510, 512, 1194, 1197, 1198 and Sections 3, 11 and 12 of the applicable IWC Wage Order, as
19 well as any civil penalty claims predicated on the claims alleged in Plaintiffs' Complaint and arising
20 during the Class Period. The Release Period shall be the Class Period.

21 This Settlement Agreement will not release any person, party, or entity from claims, if any, by
22 Class Participants for workers compensation, unemployment, or disability benefits of any nature. Nor
23 does it release any claims, actions, or causes of action which may be possessed by Class Participants
24 under state or federal discrimination statutes, including, without limitation, the California Fair
25 Employment and Housing Act (Gov. Code, §§ 12900–12996); the Unruh Civil Rights Act (Civ. Code,
26 § 51); the California Constitution; Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000, et seq.);
27 the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.); the Employee Retirement Income
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1 Security Act of 1974 (29 U.S.C. § 1001 et seq.); and all of their implementing regulations and
2 interpretive guidelines.

3 **36. Released Parties**

4 “Released Parties” shall mean and refer to Defendant and all of its subsidiaries, affiliates,
5 predecessors, successors, and related entities, and their respective officers, directors, employees,
6 fiduciaries, trustees, agents, and benefit plans.

7 **37. Releasing Parties**

8 “Releasing Parties” shall mean every Class Participant and all persons purporting to act on their
9 behalf or purporting to assert a claim under or through them, including, but not limited to, their
10 dependents, heirs, assigns, beneficiaries, devisees, legatees, executors, administrators, agents, trustees,
11 conservators, guardians, personal representatives, and successors-in-interest, whether individual, class,
12 representative, legal, equitable, direct or indirect, or any other type or in any other capacity.

13 **38. Response Deadline**

14 “Response Deadline” shall mean the date sixty (60) calendar days following the date on which
15 the Settlement Administrator first mails Class Notice to the Class Members and the last day on which
16 Class Members may submit a request for exclusion and/or objection to Class Settlement.

17 **39. Settlement Administrator**

18 “Settlement Administrator” shall mean Phoenix Settlement Administrator (or other
19 administrator agreed on by the parties) which the Parties have agreed will be responsible for
20 administration of the Class Settlement and related matters.

21 **40. Settlement Class**

22 “Settlement Class” shall mean all individuals who worked for Defendant in California as non-
23 exempt employees during the Class Period. Defendant represents there were approximately 50
24 Settlement Class Members who worked a total of approximately 23,165 shifts during the Class Period.
25 If the Court does not grant either the preliminary or final approval of settlement, or if the settlement is
26 revoked, the Parties stipulate that the conditional class certification is revoked without prejudice. In the
27 event that the class size increases by 15% or more workweeks above 23,165 workweeks (i.e., 25,481 or
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1 more total shifts), then the GSA shall be increased by the same number of percentage points by which
2 the number of workweeks exceeding 25,481 workweeks worked by the class members.

3 **41. Share Form**

4 “Share Form” shall mean the Share Form, as set forth in the form of **Exhibit 2** attached hereto,
5 or as otherwise approved by the Court, which is to be mailed to Class Members along with the Class
6 Notice.

7 **2. FACTUAL AND PROCEDURAL BACKGROUND**

8 **1. Plaintiffs’ Claims**

9 On January 22, 2022, Plaintiffs, individually and in their representative capacity on behalf of
10 the Settlement Class, and as a private attorney general on behalf of the State of California, have filed
11 their complaint alleging the following violations on a class and representative basis: (1) failure to
12 provide compliant rest periods and pay missed rest break premiums in violation of Labor Code section
13 226.7 and the Applicable Wage Orders; (2) failure to provide compliant meal periods and pay missed
14 meal period premiums in violation of Labor Code sections 226.7 and 512, and the Applicable Wage
15 Orders; (3) failure to pay all wages due and owing at separation in violation of Labor Code sections
16 201, 202, and 203; (4) failure to provide timely wages in violation of Labor Code 204; (5) failure to
17 pay overtime in violation of Labor Code 510; (6) failure to maintain accurate payroll records; (7)
18 violation of California Business Code; and (8) penalties based on the foregoing pursuant to PAGA
19 (Lab. Code, §§ 2698-2699.6).

20 **2. Discovery, Investigation, Research, and Mediation**

21 The Parties have conducted a detailed and comprehensive investigation of the claims asserted
22 against Defendant and of the applicable law. This discovery, investigation, and prosecution has
23 included, among other things, (a) over a dozen telephonic conferences with Plaintiffs; (b) inspection
24 and analysis of numerous pages of documents and other information produced by Plaintiffs and
25 Defendant; (c) an analysis of the legal positions taken by Defendant; (d) investigation into the viability
26 of class treatment of the claims asserted in the Action; (e) analysis of potential class-wide damages,
27 including information sufficient to understand Defendant’s potential defenses to Plaintiffs’ claims;
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1 (f) research of the applicable law with respect to the claims asserted in the Complaint and the potential
2 defenses thereto; (g) assembling and analyzing of data for calculating damages; and (i) consideration
3 of information disclosed at and in connection with mediation.

4 Class Counsel and the Class Representatives have vigorously prosecuted this case, and
5 Defendant has vigorously contested it. The Parties have engaged in sufficient investigation and
6 discovery to assess the relative merits of the claims of the Class Representatives and of the defenses to
7 them.

8 After such discovery, investigation, and prosecution, the Parties attended a full-day mediation
9 with an experienced employment law mediator, Hon. Linda Quinn (ret.), which culminated in a
10 settlement in principal, the terms of which are elaborated in this Settlement Agreement.

11 **3. Allegations of the Class Representative and Benefits of Class** 12 **Settlement**

13 The document and data exchange in this matter, as well as discussions between counsel, have
14 been adequate to give the Class Representatives and Class Counsel a sound understanding of the merits
15 of their positions and to evaluate the value of the claims of the Settlement Class. The informal discovery
16 conducted in this Action and the information exchanged by the Parties through pre-mediation
17 discussions are sufficient to reliably assess the merits of the Parties' respective positions and to
18 compromise the issues on a fair and equitable basis.

19 The Class Representatives and Class Counsel believe that the claims, causes of action,
20 allegations, and contentions asserted in the Action have merit. However, the Class Representatives and
21 Class Counsel recognize and acknowledge that Defendant denies that the claims, causes of action,
22 allegations and contentions have merit, and the expense and delay of continued lengthy proceedings
23 necessary to prosecute the Action against Defendant through trial and through appeals. Class Counsel
24 has taken into account the uncertain outcome of the litigation, the risk of continued litigation in complex
25 actions such as this, as well as the difficulties and delays inherent in such litigation, and the potential
26 difficulty of obtaining certification of the Settlement Class as well as trying the claims of the class.
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1 Class Counsel is mindful of the potential problems of proof under, and possible defenses to, the claims
2 alleged in the Action.

3 The Class Representatives and Class Counsel believe that the settlement set forth in this
4 Settlement Agreement confers substantial benefits upon Plaintiffs and the Settlement Class and that an
5 independent review of this Settlement Agreement by the Court in the approval process will confirm
6 this conclusion. Based on their own independent investigation and evaluation, Class Counsel has
7 determined that the settlement set forth in this Settlement Agreement is in the best interests of Plaintiffs
8 and the Class Members.

9 **4. Defendant's Denials of Wrongdoing and Liability**

10 Defendant has denied and continues to deny all allegations, claims, and contentions alleged by
11 Plaintiffs in the Action. Defendant has expressly denied and continues to deny all charges of
12 wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions
13 alleged in the Action, and has expressly denied and continues to deny any wrongdoing whatsoever.
14 Defendant contends that it complied with California and federal wage and hour laws and has dealt
15 legally and fairly with Plaintiffs and the Class Members.

16 Defendant further denies that, for any purpose other than settling this Action, these claims are
17 appropriate for class or representative treatment. Nonetheless, Defendant has concluded that further
18 proceedings in the Action would be protracted and expensive and that it is desirable that the Action be
19 fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement
20 Agreement to dispose of burdensome and protracted litigation, to permit the operation of Defendant's
21 respective businesses without further expensive litigation and the distraction and diversion of their
22 personnel with respect to matters at issue in the Action. Defendant has also taken into account the
23 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.
24 Defendant has, therefore, determined that it is desirable and beneficial to it that the Action be settled
25 in the manner and upon the terms and conditions set forth in this Settlement Agreement.

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3. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS

4. APPOINTMENT OF CLASS COUNSEL

1 **5. CONSIDERATION**

2 **1. Settlement Amount**

3 The Parties agree to settle this Action for the Gross Settlement Amount of \$125,000.00. There
4 shall be no reversion to Defendant. Defendant shall pay the Gross Settlement Amount in full. The Gross
5 Settlement Amount and other actions and forbearances taken by Defendant shall constitute adequate
6 consideration for the Class Settlement and will be made in full and final settlement of: the Released
7 Claims, the Class Attorney Fees and Expenses, Administrative Expenses, the Incentive Award, the
8 PAGA Payment (and any payments to individual PAGA Class Members resulting from the PAGA
9 Payment), and any other obligation of Defendant under this Settlement Agreement (other than the
10 Employer's Taxes on the portion of the Net Settlement Amount allocated to the payment of wages).
11 Under no circumstances will Defendant be obligated to pay more than the Gross Settlement Amount
12 and its share of the employer's payroll taxes, which shall be funded in addition to the Gross Settlement
13 Amount as a result of this Settlement, unless otherwise provided for in this Settlement.

14 **2. Incentive Award for Plaintiffs**

15 Plaintiffs may petition the Court to approve an Incentive Award in an amount up to \$3,500.00
16 for each named plaintiff, total of \$10,500.00 to acknowledge their efforts on behalf of the Settlement
17 Class in this Action, including assisting in the investigation and consulting with Class Counsel and
18 providing crucial documents to Class Counsel. Defendant shall not oppose any request by Plaintiffs for
19 an Incentive Award in such an amount. Any Incentive Award approved by the Court shall be paid to
20 Plaintiffs from the Gross Settlement Amount and shall be in addition to any distribution to which he
21 may otherwise be entitled as a Class Participant. Any Incentive Award approved by the Court shall not
22 be considered wages, and the Settlement Administrator shall issue to Plaintiffs an IRS Form 1099
23 reflecting such payment. Plaintiffs shall be responsible for the payment of all taxes with respect to any
24 Incentive Award approved by the Court and shall hold Defendant harmless from all liability with regard
25 thereto. In the event the Court reduces Class Representative's Incentive Award, the reduced amount
26 shall be added to the Net Settlement Amount to be distributed to Class Participants.

3. Payment to Class Participants

Each Class Participant shall be eligible to receive payment of the Individual Settlement Amount, which is a share of the Net Settlement Amount based on the pro rata number of weeks worked by the Class Members during the Class Period as a proportion of all weeks worked by all Class Members..

For purposes of this calculation, a workweek means a week where a Class Member was employed in California in a non-exempt job position. Each Class Participant, including Plaintiffs, shall be responsible for the payment of the Employee's Taxes and Required Withholding with respect to his or her Individual Settlement Amount and shall hold Defendant harmless from any and all liability with regard thereto.

4. Payment to PAGA Settlement Class

Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is \$6,000.00. The PAGA Payment must be approved by the Court pursuant to Labor Code section 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$ 4,500.00) to the LWDA and twenty-five percent (25%) (i.e., \$ 1,50.00) to the PAGA Settlement Class. The portion of the PAGA Payment allocated to the PAGA Settlement Class shall be distributed to the PAGA Settlement Class based on the pro rata number of pay periods worked by each particular PAGA Settlement Class member during the PAGA Period as a proportion of all pay periods worked by all members of the PAGA Settlement Class.

5. Tax Treatment and Payment

The Settlement Administrator shall be responsible for paying the employees' share of federal, state, and local payroll and income taxes. For the purpose of calculating Employee's Taxes and Required Withholding for the Individual Settlement Amounts for Class Participants (including any payments to the Class Representatives but exclusive of their Incentive Award), the Parties agree that 34% of each Individual Settlement Amount shall constitute payment in the form of wages (and each

1 Class Participant will be issued an IRS Form W-2 for such payment to him or her), and 66% of each
2 Individual Settlement Amount shall constitute penalties and interest (and each Class Participant will
3 be issued an IRS Form 1099 for such payment to him or her).

4 Prior to final distribution, the Settlement Administrator shall calculate the total Employee's
5 Taxes and Required Withholding due as a result of the wage portion of Class Participants' anticipated
6 Individual Settlement Amounts and such actual amount will be deducted from the Net Settlement
7 Amount. Additionally, prior to the funding of the Gross Settlement Amount and final distribution, the
8 Settlement Administrator shall calculate the total Employer's Taxes due on the wage portion of the
9 Class Participants' Individual Settlement Amounts and issue instructions to Defendant to separately
10 fund these tax obligations/withholdings. The Parties understand that Plaintiffs and the Class
11 Participants who receive any payment pursuant to this Settlement Agreement shall be solely
12 responsible for all other individual tax obligations.

13 With respect to the PAGA Payment and any payments made to individual members of the
14 PAGA Settlement Class, all such payments shall be treated as payments owing for penalties and interest
15 thereon and shall not be considered wages. The Settlement Administrator shall issue to members of the
16 PAGA Settlement Class an IRS Form 1099 reflecting such payment. Members of the PAGA Settlement
17 Class shall be solely responsible for the payment of all taxes with respect to any PAGA payments made
18 to them.

19 The Settlement Administrator shall issue an IRS Form W-2 to each Class Participant for the
20 portion of the Individual Settlement Amount that is designated as wages. The Settlement Administrator
21 shall issue an IRS Form 1099 to each Class Participant for the portion of the Individual Settlement
22 Awards that is not designated as wages. The Settlement Administrator shall issue an IRS Form 1099
23 to the Class Representative for any enhancement award paid in connection with his roles as the Class
24 Representative.

25 The Settlement Administrator shall file, with the California Employment Development
26 Department ("EDD"), the required reports of Personal Income Tax ("PIT") wages withheld from the
27 Individual Settlement Amounts, as well as the amounts to be paid as Unemployment Insurance ("UI"),
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1 Employment Training Tax (“ETT”), and State Disability Insurance (“SDI”). For purposes of this
2 reporting, prior to disbursement of the Individual Settlement Amounts, the Settlement Administrator
3 shall provide Defendant with a list of all Class Participants, and Defendant shall provide to the
4 Settlement Administrator the following information: (1) its Form DE 2088, Notice of Contribution
5 Rates and Statement of UI Account, for the current calendar year (if unavailable, Defendant may
6 provide instead their California State Employer’s Identification Number and its applicable UI and ETT
7 Rates); and (2) the year-to-date earnings of each Class Participant who received any wages from
8 Defendant during the current calendar year.

9 All Class Participants and Plaintiffs will be responsible for correctly characterizing the
10 compensation they receive for tax purposes and for paying any taxes on the amounts received, except
11 for the employer contributions which will be handled as provided by this Stipulation. The Class
12 Participants and Plaintiffs agree to indemnify Defendant for any liability Defendant incurs to any tax
13 authority on account of the Class Participants’ or Plaintiffs’ failures to pay all taxes due on amounts
14 they receive hereunder, except if the failure results from Defendant’s failure to pay their own respective
15 portion of taxes due. The liability of each Class Participant and Plaintiffs is limited to the liability
16 caused by that individual’s own failure.

17 **6. No Effect on Employee Benefit Plans**

18 Neither the Class Settlement nor any amounts paid under the Class Settlement will modify any
19 previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus
20 program sponsored by Defendant. Such amounts will not form the basis for additional contributions to,
21 benefits under, or any other monetary entitlement under Defendant’s sponsored benefit plans, policies,
22 or bonus programs. The payments made under the terms of this Settlement Agreement shall not be
23 applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other
24 form of compensation for the purposes of any of Defendant’s benefit plan, policy, or bonus program.
25 Defendant retains the right to modify the language of its benefits plans, policies, and bonus programs
26 to reflect this intent and to make clear that any amounts paid pursuant to this Settlement Agreement are
27 not for “weeks worked,” “weeks paid,” “weeks of service,” or any similar measuring term as defined
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1 by applicable plans, policies, and bonus programs for purpose of eligibility, vesting, benefit accrual, or
2 any other purpose, and that additional contributions or benefits are not required by this Settlement
3 Agreement. Defendant does not consider the Class Settlement payments “compensation” for purposes
4 of determining eligibility for, or benefit accrual within, any benefit plans, policies, or bonus programs,
5 or any other plan sponsored by Defendant.

6 **7. Class Attorney Fees and Expenses**

7 As part of the motion for final approval of the Class Settlement, Class Counsel may apply for
8 an award of Class Attorney Fees and Expenses with the fee portion not to exceed 1/3 of the Gross
9 Settlement Amount (i.e., \$41,666.66) and the award of costs and expenses up to an additional
10 \$9,000.00. The Class Attorney Fees and Expenses shall be paid from the Gross Settlement Amount.

11 As a condition of this Class Settlement, Class Counsel has agreed to pursue fees only in the
12 manner reflected by this subsection. Any Class Attorney Fees and Expenses awarded by the Court shall
13 be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and shall
14 not constitute payment to any Class Members. If Class Counsel voluntarily reduces the request for
15 Class Attorney Fees and Expenses or the Court’s award of Class Attorney Fees and Expenses is less
16 than set forth above, the Net Settlement Amount shall be recalculated to reflect the actual Class
17 Attorney Fees and Expenses awarded. In the event the Court reduces the Class Attorney Fees and
18 Expenses, the reduced amount shall be added to the Net Settlement Amount to be distributed to Class
19 Participants.

20 The Class Attorney Fees and Expenses approved by the Court shall reflect: (a) all work
21 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
22 represent the Settlement Class through the date of this Settlement Agreement; (b) all work to be
23 performed and costs to be incurred in connection with approval by the Court of the Class Settlement;
24 (c) all work to be performed and costs and expenses, if any, incurred in connection with administering
25 the Class Settlement through the Effective Date and dismissal of the Action with prejudice; and (d) may
26 be based on the “catalyst theory” and/or the “common fund doctrine.”
27
28

1 **6. SETTLEMENT ADMINISTRATION**

2 **1. Costs and Expenses**

3 All costs and expenses due to the Settlement Administrator in connection with its administration
4 of the Class Settlement, including, but not limited to, providing the Class Notice, locating Class
5 Members, processing Opt Out requests and objections, distributing the portion of the PAGA Payment
6 payable to the LWDA, distributing the portion of the PAGA Payment payable to the members of the
7 PAGA Settlement Class, and calculating, administering and distributing Individual Settlement
8 Amounts to the Class Participants and related tax forms, shall be paid from the Gross Settlement
9 Amount, and is not expected to exceed \$5,000.00. To the extent actual costs for claims administration
10 are less than \$5,000, those amounts will be added to the Net Settlement Amount to be distributed to
11 Class Participants. Defendant agrees not to oppose any such applications which are consistent with this
12 paragraph.

13 **2. Payment by Defendant**

14 Defendant shall deposit the Gross Settlement Amount in a lump sum payment plus the
15 employer-side payroll taxes to the Settlement Administrator within 30 days after entry of an order
16 granting final approval by the Court by wiring that amount to the Settlement Administrator. In no event
17 shall Defendant be obligated to pay or deposit with the Settlement Administrator more than
18 \$125,000.00 plus the Employer's Taxes, except where the Escalator Provision is triggered.

19 **3. The Settlement Administrator**

20 The Settlement Administrator will be responsible for: (a) preparing, translating into Spanish,
21 printing, and mailing the Class Notice and Share Form (**Exhibit 1** and **Exhibit 2**, respectively) to Class
22 Members as well as following up with reasonable skip tracing; (b) posting notice of entry of final order
23 and judgment certifying the Class Settlement and approving this Settlement Agreement; (c) handling
24 inquiries from Class Members concerning the Class Notice; (d) determining Individual Settlement
25 Amounts; (e) determining individual payments to members of the PAGA Settlement Class; (f)
26 maintaining the settlement funds in an appropriate interest-bearing account; (g) preparing,
27 administering, and distributing Individual Settlement Amounts to Class Participants; (h) preparing,
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administering, and distributing individual payments to members of the PAGA Settlement Class; distributing the portion of the PAGA Payment payable to the LWDA; (i) issuing a final report; (j) notifying the Parties of the identity of Class Members who submit timely Requests for Exclusion; (k) calculating and paying the employer's share of the applicable federal and state withholding taxes; (l) filing any required federal and state tax forms and related agency reporting; (m) filing any required reports with the Court; and (n) performing such other duties as the Parties may direct. Additionally, the Settlement Administrator will handle all tax document preparation and reporting, including state and federal tax forms, if any.

On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and Defense Counsel with summary information updating them as to the number of validated and timely objections and Opt Out requests. The Settlement Administrator will serve on Class Counsel and Defense Counsel via e-mail date-stamped copies of the original Opt Out requests and objections no later than seven (7) days after their receipt. The Settlement Administrator will provide Class Counsel with proof of mailing of the Class Notice, without listing individual Class Member names which the Settlement Administrator will file with the Court at the time Class Counsel files its motion in support of the Court's Final Approval and Fairness Hearing.

No later than seven (7) days prior to the Final Approval and Fairness Hearing, the Settlement Administrator will compile and deliver to Class Counsel and Defense Counsel a report with summary information regarding: **(a)** the total amount of final Individual Settlement Amounts of each Class Participant, without any identifying personal information; **(b)** the number of Class Participants to receive such payments, and **(c)** the final number of Opt-Outs and objections.

4. Notice to Class Members

Notice shall be provided to Class Members in the following manner: Within fourteen (14) days after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with data that is within Defendant's possession containing, for each Class Member: (a) The Class Member's name; (b) the Class Member's last known address; (c) the Class Member's social security number; (d) the Class Member's first date of employment in California in a non-exempt job position; and (e) the

1 Class Member's last date of employment (if any) in California in a non-exempt job position. This Class
2 information is confidential and not to be disclosed to anyone other than the Settlement Administrator.
3 This information shall be based on Defendant's payroll and other business records, and shall be in a
4 format readily accessible to Defendant.

5 Within twenty-eight (28) days following the Preliminary Approval Date, the Settlement
6 Administrator shall determine the number of workweeks worked by each Class Member; populate the
7 data for each Class Member accordingly; conduct a National Change of Address search to update any
8 addresses provided; and thereafter mail a copy of the Notice to all Class Members by first class regular
9 U.S. Mail, using the most current mailing address information provided by Defendant and/or obtained
10 by the Settlement Administrator. The Class Notice shall also contain an easily-understood statement
11 alerting the Class Members that, unless they elect to Opt Out of the Class Settlement, the Class Member
12 is releasing and waiving all Released Claims against the Released Parties.

13 The Class Notice will inform Class Members of their estimated share of the settlement and the
14 number of workweeks they worked during the Class Period. Class Members may dispute their
15 workweeks if they believe they worked more weeks in the Class Period than Defendant's records show
16 by submitting information to the Settlement Administrator no later than sixty (60) days after being
17 mailed the Class Notice and Share Form by the Settlement Administrator, which is the defined
18 Response Deadline. The Settlement Administrator will jointly work with Plaintiffs and Defendant to
19 resolve the dispute in good faith. However, the Court ultimately will decide about any unresolved
20 dispute.

21 The Settlement Administrator will engage in address searches consistent with its normal
22 practices in administering settlements of wage claims, including skip tracing. Such search efforts shall
23 include, where necessary, using social security numbers to obtain better address information and
24 attempting to call such Class Members.

25 **5. Opt-Out Procedure**

26 Class Members who do not timely Opt Out of the Class Settlement will be deemed to participate
27 in the Class Settlement and shall become Class Participants without having to submit a claim form or
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1 take any other action. To Opt Out of the Class Settlement, the Class Member must submit a letter or
2 postcard to the Settlement Administrator by the Response Deadline. The Opt Out request must state
3 the Class Member's name, address, telephone number, and signature. The Opt Out request should state
4 something to the effect of:

5 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE
6 CERVANTES V. RONCO PLASTICS LAWSUIT. I UNDERSTAND THAT IF I ASK
7 TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE
8 ANY MONEY FROM THE CLASS SETTLEMENT OF THIS LAWSUIT AND WILL
9 NOT BE RELEASING ANY CLAIMS I MIGHT HAVE."
10

11 Any Opt Out request that is not postmarked by the Response Deadline will be invalid.

12 Any returned envelopes from this mailing with forwarding addresses will be utilized by the
13 Settlement Administrator to forward the Notices to the Class Members. Notices returned to the
14 Settlement Administrator as non-delivered shall be re-sent to the forwarding address, if any, on the
15 returned envelope. Upon completion of these steps by the Settlement Administrator, the Parties shall
16 be deemed to have satisfied their obligation to provide the Notice to the affected Class Member. The
17 affected Class Member shall remain a Class Participant and shall be bound by all the terms of this
18 Stipulation and the Court's Final Order and Judgment. Any Re-Mailing of the Notice shall extend the
19 receipt deadline by a period of fifteen (15) calendar days.

20 It will be presumed that, if an envelope containing the Class Notice has not been returned within
21 twenty-eight (28) days of the mailing, the Class Member received the Class Notice. At least ten (10)
22 days prior to the Final Approval and Fairness Hearing, the Settlement Administrator shall provide Class
23 Counsel and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing with regard
24 to the mailing of the Class Notice and its attempts to locate Class Members. The declaration shall
25 specify the number of Class Members to whom the Class Notice was sent and the number of Class
26 Members to whom the Class Notice was not delivered, as well as information relating to the number
27 of Opt-Outs and objectors. Class Counsel shall file this declaration with the Court.
28

1 If the Settlement Administrator determines that an Opt Out request returned by a Class Member
2 before the Response Deadline is deficient, then the Settlement Administrator shall mail a deficiency
3 letter to that Class Member identifying the problem. If a Class Member submits both a dispute and an
4 Opt Out request, the Settlement Administrator shall make reasonable attempts to clarify if the Opt Out
5 request were deficient. If the Class Member fails to cure the deficiency, the Opt Out request shall be
6 disregarded and the class member will be paid, and the Class Member will become bound by the
7 judgment.

8 A request to Opt Out of the Class Settlement shall not serve to exclude the Class Member from
9 participation in the PAGA Settlement Class. Members of the PAGA Settlement Class shall have no
10 right or ability to opt out of the portion of this Settlement Agreement releasing PAGA claims.

11 Class Participants will be bound by the Release of Released Claims set forth in the definition
12 of “Released Claims” provided in this Settlement Agreement.

13 **6. Objection Procedure**

14 The Class Notice shall inform the Class Members of their right to object to the Class Settlement.
15 Any Class Member who wishes to object to the Class Settlement must submit a written objection to the
16 Settlement Administrator no later than the Response Deadline. Only Class Participants may object to
17 the Settlement. The objection must include the case name and number and only needs to provide a
18 concise statement explaining why he or she objects. If an objector also wishes to appear at the Final
19 Approval and Fairness Hearing, in person or through an attorney, they need not file a notice of intention
20 to appear at the same time as the objection is filed. The Court will consider any objections at final
21 approval. Any Re-Mailing of the Notice shall extend the receipt deadline by a period of fifteen (15)
22 calendar days.

23 The Settlement Administrator will promptly serve copies of any objection or notice of intention
24 to appear on Class Counsel and Defense Counsel. Class Counsel shall lodge a copy of the objection
25 with the Court. Class Members may appear at the Final Approval Hearing, either in person or through
26 a lawyer retained at their own expense whether or not they have submitted a timely written objection
27 and notice of intention to appear pursuant to this subsection.
28

1 In the event that the Court approves this Settlement notwithstanding the objections of any Class
2 Members, Class Members who object to the Settlement will nonetheless be bound by the Settlement.
3 Class Members who have opted out of the Settlement do not have standing to object to the Settlement
4 or to file an appeal.

5 **7. Notice of Final Judgment**

6 Within ten (10) days after the Court has held a Final and Fairness Approval Hearing and entered
7 a final order certifying the Class for settlement purposes only and approving the Class Settlement, the
8 Settlement Administrator will give notice of judgment to Class Members pursuant to rule 3.771(b) of
9 the California Rules of Court, by posting a copy of said order and final judgment on its website at a
10 web address to be included in the Class Notice.

11 **7. CLASS SETTLEMENT FUNDING AND DISTRIBUTION**

12 **1. Allocation of the Gross Settlement Amount**

13 The claims of all Class Members are settled for the Gross Settlement Amount of \$125,000.00,
14 which will be allocated as follows:

- 15 1. The Administrative Expenses, not to exceed \$5,000.00;
- 16 2. Class Counsel's attorney fees not to exceed \$41,666.66;
- 17 3. Class Counsel's litigation costs and expenses not to exceed \$9,000.00;
- 18 4. The Incentive Award, not to exceed \$10,500.00; and
- 19 5. PAGA Payment to LWDA of \$4,500.00.

20 For purposes of calculating the estimated Individual Settlement Amounts, the Settlement
21 Administrator shall calculate the estimated Net Settlement Amount based on the estimated values
22 provided above prior to sending Notice to the Class Members. Prior to final distribution, the Settlement
23 Administrator shall recalculate the final Net Settlement Amount based on the actual values of the
24 amounts in each category.

2. Calculation of the Individual Settlement Amounts for Class Participants

Individual Settlement Amounts to be paid to Class Participants shall be paid from the Net Settlement Amount. The portion of the Net Settlement Amount shall be distributed pro rata on a “checks cashed” basis based on the proportional number of weeks worked by each Class Member during the Class Period.

The Settlement Administrator shall be solely and exclusively responsible for calculating the Individual Settlement Amounts for Class Participants. Defendant shall have no responsibility for deciding the validity of the Individual Settlement Amounts or any other payments made pursuant to this Settlement Agreement, shall have no involvement in or responsibility for the determination or payment of Employee's Taxes and Required Withholding, and shall have no liability for any errors made with respect to such Employee's Taxes and Required Withholding. Although the Settlement Administrator will calculate and pay the standard Employee's Taxes and Required Withholding on the portion of the Individual Settlement Amounts constituting wages on their behalf, Plaintiffs and Class Participants represent and understand that they shall be solely responsible for any and all tax obligation associated with their respective Individual Settlement Amounts and Incentive Awards.

3. Calculation of the Payments for Individual Members of the PAGA Settlement Class

Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is \$6,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$4,500.00) to the LWDA and twenty-five percent (25%) (i.e., \$1,500.00) to the PAGA Settlement Class.

The Settlement Administrator shall be responsible for calculating the Individual PAGA Payments for the PAGA Settlement Class. The portion of the PAGA Payment allocated to the PAGA Settlement Class shall be distributed to the PAGA Settlement Class based on the pro rata number of

1 pay periods worked by each particular PAGA Settlement Class member during the PAGA Period as a
2 proportion of all pay periods worked by all PAGA Settlement Class members during the PAGA Period.
3 Each member of the PAGA Settlement Class, including Plaintiff, shall be responsible for the payment
4 of the Employee's Taxes and Required Withholding with respect to their share of the PAGA Payment
5 and shall hold Defendant harmless from any and all liability with regard thereto.

6 Defendant shall have no responsibility for deciding the validity of the individual payment
7 amounts allocated to each member of the PAGA Settlement Class or any other payments made pursuant
8 to this Settlement Agreement, shall have no involvement in or responsibility for the determination or
9 payment of Employee's Taxes and Required Withholding, and shall have no liability for any errors
10 made with respect to such Employee's Taxes and Required Withholding.

11 The members of the PAGA Settlement Class shall be solely responsible for any and all tax
12 obligation associated with their respective shares of the PAGA Payment.

13 **4. Time for Payment of Attorney Fees and Expenses**

14 The Settlement Administrator shall distribute to Class Counsel any attorney fees and expenses
15 approved by the Court to Class Counsel no later than twenty (20) days after the Effective Date.

16 **5. Time for Payment of Incentive Award**

17 The Settlement Administrator shall distribute to Plaintiffs the Incentive Award approved by the
18 Court no later than twenty (20) days after the Effective Date.

19 **6. Time for Payment of PAGA Payment to the LWDA**

20 The Settlement Administrator shall distribute to the LWDA the portion of the PAGA Payment
21 due to it and approved by the Court no later than twenty (20) days after the Effective Date.

22 **7. Time for Payment of Taxes and Required Withholding and** 23 **Individual Settlement Amounts**

24 The Settlement Administrator shall make every effort to pay the Employee's Taxes and
25 Required Withholding associated with each Class Participant's Individual Settlement Amount and mail
26 the Individual Settlement Amount to each Class Participant, by first-class United States mail, to the
27 last-known address no later than twenty (20) days after the Effective Date. If the Settlement
28

1 Administrator is not able to do so within the time period set forth above, it shall so inform Class Counsel
2 and Defense Counsel and provide an approximate date by which the Employee's Taxes and Required
3 Withholding shall be paid and the Individual Settlement Amounts will be mailed. Under no
4 circumstances shall the Settlement Administrator distribute checks to Class Participants until all
5 Individual Settlement Amounts have been considered, calculated, and accounted for, and all of the
6 remaining monetary obligations have been calculated and accounted for.

7 Within one hundred twenty (120) days of mailing the Individual Settlement Amounts to Class
8 Participants or as Ordered by the Court, the Settlement Administrator shall file with the Court and
9 provide to Class Counsel a declaration of payment. In the event that any Class Participant is deceased,
10 payment shall be made payable to the estate of that Class Member and delivered to the executor or
11 administrator of that estate, unless the Settlement Administrator has received an affidavit or declaration
12 pursuant to California Probate Code section 13101, in which case payment shall be made to the
13 affiant(s) or declarant(s).

14 **8. Non-Cashed Settlement Checks**

15 Any funds associated with checks that have not been cashed within one hundred eighty (180)
16 days, will become void and the Individual Settlement Amount associated with the uncashed check will
17 be distributed pursuant to Code of Civil Procedure section 384 to the Public Law Center in Santa Ana,
18 California. For the purposes of determining whether Defendant has met its financial obligation to pay
19 the Individual Settlement Payment, Defendant will be deemed to have fulfilled its obligation upon the
20 mailing of the check to the Class Member, regardless of whether such Class Member subsequently
21 negotiates the check.

22 **9. Disputes Regarding Class Member Workweeks Data or** 23 **Payment of Individual Settlement Shares**

24 Each Class Member may dispute the number of Workweeks or their estimated Individual
25 Settlement Amount contained on their Class Notice ("Workweeks Dispute"). Class Member
26 Workweeks and the corresponding Individual Settlement Amount shall be calculated using the
27 employment and payroll records of Defendant.
28

Any Workweeks Dispute must be mailed or faxed to the Settlement Administrator by the Class Member, postmarked or fax-stamped on or before the Response Deadline. Any Re-Mailing of the Notice shall extend the receipt deadline by a period of fifteen (15) calendar days. The Settlement Administrator shall immediately provide copies of all disputes to counsel for Defendant, shall inform Class Counsel of the dispute without disclosing the identity of the Class Member making the dispute, and shall immediately attempt to resolve all such disputes directly with relevant Class Members with the assistance of Defendant, Defense Counsel, and Class Counsel. If the dispute cannot be resolved, it shall be submitted to the Settlement Administrator for its decision. The Settlement Administrator shall use its best efforts to resolve all such disputes prior to the Effective Date. If, however, a dispute arises or is not resolved until after the Settlement Amount has been distributed, the initial calculation shall stand (as Defendant shall be under no obligation to pay any amounts in excess of the Gross Settlement Amount under this Settlement Agreement). Plaintiffs will file with the Court all disputes submitted by Class Members, the evidence submitted, and the resolution of those disputes. The Court shall have the right to review any decision made by the Settlement Administrator regarding a claim dispute.

8. NULLIFICATION OF THIS SETTLEMENT AGREEMENT

1. Non-Approval of this Settlement Agreement

This Stipulation shall be considered null and void, all Parties to the Class Settlement shall stand in the same position, without prejudice, as if the Class Settlement had been neither entered into nor filed with the Court, and any order of judgment entered by the Court in furtherance of the settlement shall be vitiated *nunc pro tunc*, if any of the following occurs: (a) the Court should for any reason fail to approve this Settlement Agreement in the form agreed to by the Parties; (b) the Court does not enter the Final Settlement Approval Order and Judgment as provided for herein or contemplated by this Stipulation; (c) the Court does not enter a Final Settlement Approval Order and Judgment as provided for herein that becomes final as a result of the occurrence of the Effective Date; or (d) the Settlement does not become final for any other reason. Notwithstanding the foregoing, the Parties may attempt in good faith to cure any perceived defects in this Settlement Agreement to facilitate approval.

1 **2. Parties' Rights to Void Class Settlement**

2 If five percent (5%) or more members of the Settlement Class timely submit Opt Out requests,
3 Defendant shall have the right (but not the obligation) to void this Settlement Agreement, in which case
4 this Stipulation will not have any force and/or effect. Class Counsel and Plaintiffs agree not to oppose
5 any application by Defendant and/or its Counsel that is consistent with this paragraph. The Parties and
6 their counsel agree not to take any action to encourage any Class Members to opt out of and/or object
7 to the Settlement Agreement.

8 If the Settlement is voided, no payment will be made by Defendant to Plaintiff, any Class
9 Member, or Class Counsel; and all Parties and third parties referenced in this Stipulation will bear their
10 own costs, fees, and expenses associated with the Litigation.

11 **3. Stay on Appeal**

12 If an appeal is filed from the Court's Final Settlement Approval Order and Judgment prior to
13 the Effective Date, administration of the Settlement shall be immediately stayed pending final
14 resolution of the appeal process.

15 In the event of a timely appeal from the approval of the Class Settlement and judgment prior to
16 the Effective Date, the judgment and administration of the Settlement shall be immediately stayed
17 pending final resolution of the appeal process.

18 **9. MOTIONS FOR COURT APPROVAL**

19 **1. Preliminary Approval**

20 As soon as practicable after execution of this Settlement Agreement, Class Counsel will submit
21 this Settlement Agreement to the Court along with a Motion for Preliminary Approval of the Class
22 Settlement, and shall apply to the Court for the entry of an order substantially in the following form:

23 a) Scheduling a fairness hearing on the question of whether the proposed Settlement –
24 including payment of attorneys' fees, attorneys' costs, appointment of the Class Representatives and
25 the amount of their enhancement award, and the method of determining Individual Settlement Amounts
26 to be paid to Class Participants, should be finally approved as fair, reasonable, and adequate as to the
27 Class;
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1 b) Approving as to form and content the proposed Class Notice and Share Form (attached
2 as Exhibit 1 and Exhibit 2, respectively);

3 c) Directing the mailing to Class Members of the Notice, by first class U.S. Mail, pursuant
4 to the terms specified herein;

5 d) Preliminarily approving the Settlement, subject only to the objections of Class Members
6 and final review by the Court; and

7 e) Enjoining the Class Representative and all Class Members from filing or prosecuting
8 any claims, suits, or administrative proceedings (including filing claims with the California Division
9 of Labor Standards Enforcement) regarding claims released by the Settlement unless such individuals
10 have submitted valid Requests for Exclusion to the Administrator.

11 Each party shall cooperate to present the Class Settlement to the Court for preliminary approval
12 in a timely fashion. While Defendant can reserve its right to object to facts or assertions made in the
13 moving papers, Defense Counsel shall file a notice of non-opposition to the granting of the motion for
14 preliminary approval or join in the motion.

15 To the extent the Court does not approve this Stipulation, or any term contained herein, and
16 instead allows the Parties to amend this Stipulation, the Parties agree to cooperate in good faith to
17 amend the Stipulation in accordance with the Court's direction, and to retain all other terms of the
18 Stipulation that the Court approves.

19 **2. Final Approval**

20 Class Counsel shall timely prepare Final Settlement Papers in conformance with the terms of
21 this Stipulation, including: (1) motion for final approval of the Settlement and award of attorneys' fees
22 and costs and enhancement award (2) the [Proposed] Final Settlement Order; and (3) any other
23 documents, petitions, or motions required to effectuate this Settlement – including, but not limited to,
24 any additional proposed orders requested by the Court. Class Counsel shall provide copies of such
25 documents to Defendant's counsel at least three (3) days before filing for comment, though Class
26 Counsel is not required to obtain Defendant's approval before filing.

1 The Final Approval and Fairness Hearing shall be held before the Court. At the Final Approval
2 and Fairness Hearing, Plaintiffs shall move the Court for the entry of the final order certifying the
3 Settlement Class for settlement purposes only and approving the Class Settlement as being fair,
4 reasonable, and adequate to the Class Participants within the meaning of California Rules of Court,
5 Rule 3.769, subdivisions (c), (d) and (e), and for the entry of a final judgment of the Action consistent
6 with the terms of the Class Settlement and rule 3.769, subdivision (h), of the California Rules of Court.
7 Class Counsel and Defense Counsel shall submit to the Court such pleadings and/or evidence as may
8 be required for the Court's determination.

9 **10. RELEASES AND WAIVERS**

10 **1. Release of Claims by PLAINTIFFS AND Settlement Class**

11 Upon the Effective Final Settlement Date and payment by Defendant to the Settlement
12 Administrator of the full Gross Settlement Amount and Employers' Taxes necessary to effectuate the
13 Settlement, Plaintiffs and all Participating Class Members waive, release, discharge, all claims against
14 the Released Parties asserted in the Action or any and all claims that could be asserted against the
15 Released Parties based on the factual allegations in the Action as follows:

16 The "Released Claims" are those claims alleged in the operative Complaint, or that reasonably
17 could have been alleged based on the facts and claims asserted in the Complaint, and arising during the
18 Class Release Period, specifically including, claims under Labor Code sections 226, 226.7, 203, 204,
19 210, 510, 512, 1194, 1197, 1198 and Sections 3, 11 and 12 of the applicable IWC Wage Order, as well
20 as any civil penalty claims predicated on the claims alleged in Plaintiffs' Complaint and arising during
21 the Class Period. The Release Period shall be the Class Period.

22
23 For Aggrieved Employees, and, to the extent permitted by law, the State of California, the
24 release includes for the duration of the PAGA Period, all claims for civil penalties for the Class
25 Released Claims as well as those asserted in the PAGA Notice and alleged in the Operative Complaint,
26 for PAGA civil penalties pursuant to Labor Code sections 2699 based on the Labor Code. The release
27 also includes a release from the State of California (to the extent Plaintiffs are permitted to provide
28

1 such a release for the State of California for the PAGA period) of all PAGA claims alleged in the
2 Operative Complaint which occurred during the PAGA Period.”

3 This Settlement Agreement will not release any person, party, or entity from claims, if any, by
4 Class Participants for workers compensation, unemployment, or disability benefits of any nature. Nor
5 does it release any claims, actions, or causes of action which may be possessed by Class Participants
6 under state or federal discrimination statutes, including, without limitation, the California Fair
7 Employment and Housing Act (Gov. Code, §§ 12900–12996); the Unruh Civil Rights Act (Civ. Code,
8 § 51); the California Constitution; Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000, et seq.);
9 the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.); the Employee Retirement Income
10 Security Act of 1974 (29 U.S.C. § 1001 et seq.); and all of their implementing regulations and
11 interpretive guidelines.

12 **2. GENERAL Release of Claims by NAMED Plaintiffs**

13 In addition to the release set forth in Paragraph 10.1 above, Plaintiffs, on behalf of themselves
14 and their dependents, heirs and assigns, beneficiaries, devisees, legatees, executors, administrators,
15 agents, trustees, conservators, guardians, personal representatives, and successors-in-interest, whether
16 individual, class, representative, legal, equitable, direct or indirect, or any other type or in any other
17 capacity, shall and does hereby forever release, discharge and agree to hold harmless the Released
18 Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements,
19 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and
20 expenses (including attorney fees and costs), known or unknown, at law or in equity, which she may
21 now have or may have after the signing of this Settlement Agreement, arising out of or in any way
22 connected with their employment with Defendant including, the Released Claims, claims that were
23 asserted or could have been asserted in the Complaint, and any and all transactions, occurrences, or
24 matters between the Parties occurring prior to the date this Settlement Agreement is fully executed.
25 Without limiting the generality of the foregoing, this release shall include, but not be limited to, any
26 and all claims under: (a) the Americans with Disabilities Act; (b) Title VII of the Civil Rights Act of
27 1964; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981; (e) the Age Discrimination in
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1 Employment Act; (f) the Fair Labor Standards Act; (g) the Equal Pay Act; (h) the Employee Retirement
2 Income Security Act, as amended; (i) the Consolidated Omnibus Budget Reconciliation Act; (j) the
3 Rehabilitation Act of 1973; (k) the Family and Medical Leave Act; (l) the Civil Rights Act of 1966;
4 (m) the California Fair Employment and Housing Act; (n) the California Constitution; (o) the
5 California Labor Code; (p) the California Government Code; (q) the California Civil Code; and (r) any
6 and all other federal, state, and local statutes, ordinances, regulations, rules, and other laws, and any
7 and all claims based on constitutional, statutory, common law, or regulatory grounds as well as any
8 other claims based on theories of wrongful or constructive discharge, breach of contract or implied
9 contract, fraud, misrepresentation, promissory estoppel, or intentional infliction of emotional distress,
10 negligent infliction of emotional distress, or damages under any other federal, state, or local statutes,
11 ordinances, regulations, rules, or laws. This release is for any and all relief, no matter how denominated,
12 including, but not limited to, back pay, front pay, vacation pay, bonuses, compensatory damages,
13 tortious damages, liquidated damages, punitive damages, damages for pain and suffering, and attorney
14 fees and costs, and Plaintiffs hereby forever releases, discharges and agrees to hold harmless Defendant
15 and the Released Parties from any and all claims for attorney fees and costs arising out of the matters
16 released in this Settlement Agreement.

17 Plaintiffs specifically acknowledges that he is aware of and familiar with the provisions of
18 California Civil Code section 1542, which provides as follows:

19 “A general release does not extend to claims that the creditor or releasing party does not
20 know or suspect to exist in his or her favor at the time of executing the release and that,
21 if known by him or her, would have materially affected his or her settlement with the
22 debtor or released party.”
23

24 Plaintiff, being aware of California Civil Code section 1542, hereby expressly waives and
25 relinquishes all rights and benefits she may have under section 1542 as well as any other statutes or
26 common law principles of a similar effect. Plaintiffs may hereafter discover facts in addition to or
27 different from those which she now knows or believes to be true with respect to the subject matter of
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1 all the claims referenced herein, but agrees that, upon the Effective Date, Plaintiffs shall and hereby
2 does fully, finally, and forever settle and release any and all claims against the Released Parties, known
3 or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have
4 been asserted upon any theory of law or equity without regard to the subsequent discovery of existence
5 of such different or additional facts. Plaintiff's general release shall extend up to the Final Order and
6 Judgment.

7 **3. Circular 230 Disclaimer**

8 Each party to this Settlement Agreement (for purposes of this section, the "Acknowledging
9 Party"; and each party to this Agreement other than the Acknowledging Party, an "Other Party")
10 acknowledges and agrees that (1) no provision of this Settlement Agreement, and no written
11 communication or disclosure between or among the parties or their attorneys and other advisers, is or
12 was intended to be, nor shall any such communication or disclosure constitute or be construed or be
13 relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31
14 C.F.R. Part 10); (2) the Acknowledging Party (a) has relied exclusively upon her or its own
15 independent legal and tax advisers for advice (including tax advice) in connection with this Settlement
16 Agreement, (b) has not entered into this Settlement Agreement based upon the recommendation of any
17 other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
18 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that
19 may be imposed on the Acknowledging Party; and (3) no attorney or adviser to any other party has
20 imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies
21 (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party
22 of the tax treatment or tax structure of any transaction, including any transaction contemplated by this
23 Settlement Agreement.

24 **11. DUTIES OF THE PARTIES**

25 **1. Mutual Full Cooperation**

26 The Parties agree to cooperate fully with one another to accomplish and implement the terms
27 of this Settlement Agreement. Such cooperation shall include, but not be limited to, execution of such
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1 other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms
2 of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated
3 by this Settlement Agreement and any other efforts that may become necessary by court order or
4 otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable
5 after execution of this Settlement Agreement, Class Counsel, with the cooperation of Defendant and
6 Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of
7 this Settlement Agreement.

8 **2. Duty to Support and Defend the Class Settlement**

9 The Parties agree to abide by all of the terms of this Settlement Agreement in good faith and to
10 support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any
11 legal challenge, whether by appeal or collateral attack.

12 **12. MISCELLANEOUS PROVISIONS**

13 **1. Enforcement**

14 Notwithstanding anything else contained herein, this Settlement Agreement shall be
15 enforceable under California Code of Civil Procedure section 664.6 and admissible under California
16 Evidence Code section 1123, subdivision (a), and the Federal Rules of Evidence.

17 **2. Different Facts**

18 The Parties acknowledge that, except for matters expressly represented herein, the facts in
19 relation to the dispute and all claims released by the terms of this Settlement Agreement may turn out
20 to be different from the facts now known by each party and/or its counsel, or believed by such Party or
21 counsel to be true, and each Party therefore expressly assumes the risk of the existence of different or
22 presently unknown facts, and agrees that this Settlement Agreement shall be in all respects effective
23 and binding despite such difference.

24 **3. No Prior Assignments**

25 The Parties represent, covenant, and warrant that they have not directly or indirectly assigned,
26 transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any
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1 portion of any liability, claim, demand, action, cause of action, or right herein released and discharged
2 except as set forth herein.

3 **4. Non-Admission**

4 Nothing contained herein is to be construed or deemed to be an admission of liability or
5 wrongdoing by Defendant. This Stipulation and the attached exhibits are settlement documents, and,
6 pursuant to California Evidence Code section 1152, these documents shall be inadmissible in any
7 proceeding except in an action or proceeding to approve, interpret, or enforce this Stipulation.

8 **5. Non-Evidentiary Use**

9 Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation
10 or drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member (including any
11 individual who requested to be excluded from the Settlement Class), Defendant, or its, her, his, or their
12 respective counsel, in the Action, except as is reasonably necessary to effectuate the Settlement
13 Agreement's purpose and terms. This Settlement Agreement may, however, be used by Defendant and
14 the Released Parties to prove or defend against any claim released herein by any Class Member in any
15 judicial, quasi-judicial, administrative, or governmental proceeding.

16 **6. Media or Press**

17 Plaintiffs and Defendant, and their respective counsel, recognize, accept, and agree that the
18 Parties to this Settlement Agreement desire that the terms of this Settlement Agreement, the fact of the
19 Class Settlement embodied in this Settlement Agreement, the disposition of the Action, the Action, and
20 all matters relating to the litigation of the Action, including discovery proceedings therein, and evidence
21 obtained during the course of the Action, shall not be discussed with, publicized, or presented to the
22 media or press. The Parties and their counsel shall not issue press releases, communicate with, or
23 respond to any media or publication entities, publish information in manner or form, whether printed
24 or electronic, on any medium or otherwise communicate, whether by print, video, recording or any
25 other medium, with any person or entity concerning the Settlement Agreement, including the fact of
26 the Settlement Agreement, its terms or contents and the negotiations underlying the Settlement
27 Agreement, except as shall be contractually required to effectuate the terms of the Settlement
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1 Agreement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class
2 counsel in other actions, Class Counsel may disclose a brief description of the case and the fact of
3 settlement. In response to any inquiries, including those from media outlets, concerning the settlement,
4 the Parties and their respective counsel agree that they shall simply respond by stating, “the matter has
5 resolved.”

6 **7. Non-Retaliation**

7 Defendant understands and acknowledges that it has a legal obligation to not retaliate against
8 any Class Member who elects to participate in the Class Settlement or elects to Opt Out of the Class
9 Settlement. Defendant will refer any inquiries regarding this Class Settlement to the Settlement
10 Administrator or Class Counsel and will not discourage Class Members who are employees, directly
11 or indirectly, from making claims, opting out, or objecting to the Class Settlement. None of the Parties,
12 or their respective attorneys or agents, shall solicit or encourage any Class Members, directly or
13 indirectly, to Opt Out of the Class Settlement.

14 **8. Construction**

15 The Parties agree that the terms and conditions of this Settlement Agreement are the result of
16 lengthy, intensive, arms-length, non-collusive negotiations between the Parties and that this Settlement
17 Agreement is not to be construed in favor of or against any party by reason of the extent to which any
18 party or its counsel participated in the drafting of this Settlement Agreement. If any of the dates in this
19 Settlement Agreement fall on a weekend, bank or court holiday, the time to act shall be extended to the
20 next business day.

21 **9. Governing Law**

22 This Settlement Agreement is intended to and shall be governed by the laws of the State of
23 California, without regard to conflict of law principles, in all respects, including execution,
24 interpretation, performance, and enforcement.

25 **10. Notices**

26 Except for Class Member notices required to be made by the Settlement Administrator, all
27 notices or other communications required or permitted under this Settlement Agreement shall be in
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1 writing and shall be sufficiently given if delivered in person to the party or their counsel by U.S.
2 certified mail, postage prepaid, e-mail, facsimile, or overnight delivery addressed to the address of the
3 party appearing in this Settlement Agreement.

4 **11. Captions and Interpretations**

5 Section titles or captions contained herein are inserted as a matter of convenience and for
6 reference only and in no way define, limit, extend, or describe the scope of this Settlement Agreement
7 or any provision thereof.

8 **12. Modification**

9 This Settlement Agreement may not be changed, altered, or modified, except in writing signed
10 by the Parties. This Settlement Agreement may not be discharged except by performance in accordance
11 with its terms or by a writing signed by the Parties.

12 **13. Integration Clause**

13 This Settlement Agreement contains the entire agreement between the Parties relating to the
14 Class Settlement of the Action and the transactions contemplated thereby, and all prior or
15 contemporaneous agreements, understandings, representations, and statements, whether oral or written,
16 and whether by a party or such party's legal counsel, are upon full execution of this agreement hereby
17 superseded. No rights under this Settlement Agreement may be waived except in writing as provided
18 above.

19 **14. Successors and Assigns**

20 This Settlement Agreement shall be binding on and inure to the benefit of the Parties and Class
21 Members (excluding only persons who timely Opt Out) and their respective present and former heirs,
22 trustees, executors, administrators, representatives, officers, directors, shareholders, agents, employees,
23 insurers, attorneys, accountants, auditors, advisors, consultants, pension plans, welfare benefit plans,
24 fiduciaries, parent companies, subsidiaries, affiliates, related companies, joint ventures, predecessors,
25 successors, and assigns.

1 **15. Corporate Signatories**

2 Any person executing this Settlement Agreement or any such related document on behalf of a
3 corporate signatory or on behalf of a partnership hereby warrants and promises, for the benefit of all
4 Parties hereto, that such person has been duly authorized by such corporation or partnership to execute
5 this Settlement Agreement or any such related document.

6 **16. Execution in Counterparts**

7 This Settlement Agreement shall become effective upon its execution by all of the undersigned.
8 The Parties may execute this Settlement Agreement in counterparts, and execution of counterparts shall
9 have the same force and effect as if all Settling Parties had signed the same instrument.

10 **17. Attorney Fees, Costs, and Expenses**

11 Except as otherwise specifically provided for herein, each party shall bear their or its own
12 attorney fees, costs, and expenses, taxable or otherwise, incurred by them in or arising out of the Action
13 and shall not seek reimbursement thereof from any other party to this Settlement Agreement.

14 **18. Action to Enforce Agreement**

15 In the event that any of the Parties to this Stipulation institutes any legal action, arbitration, or
16 other proceeding against any of the other Parties to enforce the provisions of this Stipulation or to
17 declare rights or obligations under this Stipulation, the prevailing party shall be entitled to recover their
18 or its attorney fees and costs incurred in connection with any such enforcement proceedings.

19 **19. JURISDICTION OF THE COURT**

20 The Court shall retain jurisdiction with respect to the interpretation, implementation, and
21 enforcement of the terms of this Stipulation and all orders and judgments entered in connection
22 therewith.

23 **20. EXHIBITS INCORPORATED BY REFERENCE**

24 The terms of this Stipulation include the terms set forth in any attached Exhibit, which are
25 incorporated by this reference as though fully set forth herein. Any Exhibit to this Stipulation is an
26 integral part of the Settlement.
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1 Dated 12/15/2022

By: Alondra Barajas
Alondra Barajas

Its: Director of Administration

Law Offices of Farrah Mirabel

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5 Dated _____

By: _____
Farrah Mirabel
Attorney for Plaintiffs

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8 Dated _____

EMPLOYMENT RIGHTS LAW GROUP, APC

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10 By: _____
Amir Seyedfarshi
Attorney for Plaintiffs

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13 **ALVARADO SMITH, APC**

14 Dated 12/15/2022

15 By: Theodore E. Bacon
Theodore E. Bacon
Attorney for Defendant

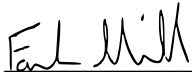
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4 **Law Offices of Farrah Mirabel**

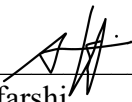
5 Dated **12-02-2022**

6 By:  _____

7 Farrah Mirabel
Attorney for Plaintiffs

8
9 Dated 12/15/2022

EMPLOYMENT RIGHTS LAW GROUP, APC

10 By:  _____

11 Amir Seyedfarshi
Attorney for Plaintiffs

12
13 **ALVARADO SMITH, APC**

14 Dated _____

By: _____

15 Theodore E. Bacon
Attorney for Defendant