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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

DUSTIN EVERS *et al.*

Plaintiff,

vs.

LZB RETAIL, INC. *et al.*

Defendants.

CASE NO. 37-2021-00047960-CU-OE-CTL

[Assigned for All Purposes to Hon. James A. Mangione, Dept. C-75]

**STIPULATION FOR SETTLEMENT AND
RELEASE OF CLASS ACTION AND
PAGA CLAIMS**

1 **STIPULATION FOR SETTLEMENT AND RELEASE**
2 **OF CLASS ACTION AND PAGA CLAIMS**

3 This Stipulation for Settlement and Release of Class Action and PAGA Claims (the
4 **“Settlement Agreement”** or **“Agreement”**) is made and entered into by and between Plaintiff
5 DUSTIN EVERS (**“Evers”** or **“Plaintiff”** or **“Class Representative”**), on his own behalf and as a
6 proposed representative on behalf of the Class to be certified pursuant to this Settlement Agreement
7 (as described in Paragraph 6, below) and each of the members of the Class (each, individually, a
8 **“Class Member”** and, collectively, **“Class Members”**), on the one hand, and Defendant LZB
9 RETAIL, INC. d/b/a LA-Z-BOY. (**“La-Z-Boy”** or **“Defendant”**), on the other hand, in *Evers v. La-*
10 *Z-Boy, et al.*, Superior Court of the State of California for the County of San Diego, Case No. 37-
11 2021-00047960-CU-OE-CTL (the **“Litigation”** or **“Class Action”**).

12 This Settlement Agreement is subject to the terms and conditions hereof and the approval of
13 the Court. For purposes of this Settlement Agreement, Plaintiff and Defendant are each referred to
14 individually as a **“Party”** and collectively as the **“Parties.”**

15 **SETTLEMENT AMOUNT**

16 As described in detail hereafter, and pursuant to all of the terms and conditions set forth in
17 this Settlement Agreement, Defendant shall pay the total amount of One Million and Seventy-Five
18 Thousand Dollars (\$1,075,000.00) (the **“Gross Settlement Fund,”** **“GSF,”** or **“Settlement Fund”**),
19 to resolve all of the claims being released herein, as set forth in detail hereafter. This Settlement
20 Agreement is not subject to any reversion of funds to Defendant, such that the entire settlement
21 amount will be payable if the settlement becomes final as defined herein, and any amounts not
22 received via mail by any Class Members will be transmitted by the Settlement Administrator
23 pursuant to governing law to the California Unclaimed Property fund to be held there for the benefit
24 of such Class Members under California’s escheatment laws.

25 **BACKGROUND AND RECITALS**

26 1. On October 7, 2021, Plaintiff filed with the California Labor and Workforce
27 Development Agency (**“LWDA”**) and thereafter served on Defendant a notice under California
28 Labor Code § 2699.3 stating he intended to serve as a proxy of the LWDA to recover civil penalties

1 on behalf of “Aggrieved Employees” (as defined in Paragraph **16**, below) for various alleged
2 violations of the California Labor Code and applicable California Industrial Welfare Commission
3 (“**IWC**”) Wage Orders.

4 2. On November 12, 2021, Plaintiff filed a putative class action against La-Z-Boy in
5 the San Diego County Superior Court, assigned Case No. 37-2021-00047960-CU-OE-CTL therein
6 (the “**Class Action**”). On November 28, 2022, Plaintiff Evers filed a separate representative action
7 against La-Z-Boy in the San Diego County Superior Court, assigned Case No. 37-2022-0007717-
8 CU-OE-CTL (the “**PAGA Action**”). On April 26, 2023, Plaintiff consolidated the two cases and
9 filed a Consolidated Class and Representative Action Complaint in the Class Action.

10 3. The Class Action and PAGA Action are collectively referred to herein as the
11 “**Actions.**”

12 4. The Parties engaged in an extensive informal exchange of documents and
13 information, including, *inter alia*, data regarding putative class members.

14 5. On October 23, 2023, the Parties participated in a private mediation with Mediator
15 Michael E. Dickstein, Esq. As a result of the mediation, the Parties have prepared and are entering
16 into this Settlement Agreement to resolve all of the claims being released herein.

17 6. For purposes of this Settlement Agreement only, the “**Class**” or “**Settlement Class**”
18 consists of:

19 All current and former non-exempt employees employed by Defendant in California
20 at any time during the time period from May 13, 2017 through the date the Court
21 grants preliminary approval of the settlement (the “**Settlement Period**”), but
22 excluding anyone who has filed their own separate action as a named Plaintiff
23 alleging the same or similar claims being released by the settlement and/or who has
24 previously released such claims.

25 7. No Admission of Liability by the Defendant. Defendant denies any liability or
26 wrongdoing of any kind associated with the Actions and the claims being released herein.
27 Defendant contends, among other things, that it has complied at all times with all applicable
28 California laws and asserts that the Class Members were properly compensated and otherwise

1 treated at all times in compliance with California law, including without limitation as to breaks,
2 wage statements, expense reimbursement and timing of payment of wages during and at termination
3 of employment. Neither this Settlement Agreement nor any exhibit hereto, nor any other document
4 pertaining to the settlement contemplated herein, may be offered in any other case or proceeding as
5 evidence of any admission by Defendant of any liability on any claims for damages or other relief.
6 Any stipulation or admission by Defendant contained herein is made for settlement purposes only.

7 8. Nevertheless, in the interest of avoiding the costs and disruption of ongoing litigation
8 and resolving the claims asserted in the Actions, the Parties believe that the settlement negotiated
9 between them and set forth in this Settlement Agreement is fair, reasonable, and adequate.

10 9. It is the desire of Plaintiff, on his own behalf and on behalf of the Class Members, as
11 well as on behalf of the LWDA and its constituent departments, divisions and agencies with respect
12 to those claims asserted under the California Labor Code Private Attorneys General Act (“PAGA”),
13 Cal. Lab. Code § 2698, *et seq.*, to fully, finally, and forever settle, compromise, and discharge the
14 claims set forth in Paragraphs 39 and 40 of this Settlement Agreement, as applicable).

15 **TERMS OF THE SETTLEMENT**

16 10. Stipulation for Conditional Class Certification: The Parties stipulate and agree to the
17 conditional certification of the Settlement Class in the Class Action for purposes of this Settlement
18 Agreement only. Should, for whatever reason, the settlement set forth in this Settlement Agreement
19 not become final, the Parties’ stipulation to such class certification as part of this settlement shall
20 become null and void *ab initio* and shall have no bearing on, and shall not be admissible in
21 connection with, the issue of whether or not certification would be appropriate in a non-settlement
22 context. Defendant expressly reserves its rights and declares that, to the extent Plaintiff may
23 otherwise be permitted to seek class certification, it intends to oppose class certification vigorously
24 should this settlement not become final and putative class action claims are allowed to be pursued
25 in the Litigation or any other action or proceeding.

26 11. Establishment of the Settlement Fund: This settlement is being made on a non-
27 reversionary basis, such that Defendant will pay the entirety of the agreed upon total settlement
28 amount of One Million and Seventy-Five Thousand Dollars (\$1,075,000.00) (the “Gross

1 **Settlement Fund” or “GSF”).**

2 12. The payment by Defendant of the total Gross Settlement Fund, pursuant to this
3 Settlement Agreement, shall settle and forever resolve all of the Released Claims (as defined below),
4 and will include all payments to Participating Class Members (as defined below), Aggrieved
5 Employees (as defined below), and government taxing authorities (to the extent applicable), plus (a)
6 the costs of administration of the settlement, (b) all claimed and/or awarded attorneys’ fees and
7 costs, (c) the claimed and/or awarded enhancement award to the Class Representative, (d) employer
8 payroll taxes which shall be paid from the Gross Settlement Fund, and (e) all payments to be made
9 to the LWDA pursuant to PAGA. The settlement payments are not being made for any other purpose
10 and will not be construed as “compensation” for purposes of determining eligibility for any health
11 and welfare benefits, unemployment compensation, or other compensation or benefits provided by
12 Defendant. In addition, no individual receiving a payment based on this Settlement shall be entitled
13 to any additional or increased health, welfare, retirement, or other benefits as a result of their
14 participation in the Settlement and/or receipt of payment under this Settlement.

15 13. Calculation of Net Settlement Fund: The total sum from which Participating Class
16 Members will be paid (the “**Net Settlement Fund**” or “**NSF**”) shall be the Gross Settlement Fund
17 less the following: Settlement Administration Costs, PAGA Amount (as defined below), Attorneys’
18 Fees and Costs, Employer Payroll Taxes, and Enhancement Award. The remaining sum after all
19 these deductions shall represent the NSF, which will be used to calculate the settlement share that
20 each Participating Class Member will receive if this settlement becomes Final as defined in
21 Paragraph 14, below.

22 14. Effective Date: This Settlement Agreement shall become effective when the
23 settlement is considered to be Final. For purposes of this Settlement Agreement, “**Final Approval**”
24 means the Court’s determination that the Settlement is fair, reasonable, and adequate, granting of
25 final approval of the Settlement, and entry of judgment based thereon, and “**Final Approval Order**”
26 means the Court’s order determining the Settlement to be fair, reasonable, and adequate and granting
27 final approval of the Settlement and judgment based thereon. For purposes of this Settlement
28 Agreement, “**Effective Date**” and “**Final**” mean: (i) in the event that the Settlement has received

1 Final Approval by the Court, and regardless of whether any timely objections thereto have been
2 filed or withdrawn, then upon the passage of the applicable date for any interested party to seek
3 appellate review of the Court's Final Approval Order without a timely appeal being filed, and the
4 dismissals with prejudice of the Actions being effectuated; or, (ii) in the event that a timely appeal
5 of the Court's Final Approval Order has been filed, then the Settlement Agreement shall be final
6 when the applicable appellate court has rendered a final decision or opinion affirming the Court's
7 Final Approval Order without material modification, the applicable date for seeking further
8 appellate review has passed without further appellate review being sought, and the dismissals with
9 prejudice of the Actions have been effectuated. In the event that the Court fails to approve the
10 Settlement, or if the appropriate appellate court fails to approve the Settlement, and/or Plaintiff fails
11 to effectuate the dismissals of the Class Action and the PAGA Action as specified: (1) this
12 Settlement Agreement shall have no force and effect and the Parties shall be restored to their
13 respective positions prior to entering into it, and no Party shall be bound by any of the terms of the
14 Settlement Agreement; (2) Defendant shall have no obligation to make any payments to the LWDA,
15 Class Members, Plaintiff, or Plaintiff's Counsel; and (3) any preliminary approval order and/or Final
16 Approval Order shall be vacated.

17 15. Mediation and Settlement Communications: The Settlement Agreement and all
18 negotiations, statements, proceedings, and data relating thereto shall be deemed confidential
19 mediation settlement communications and not subject to disclosure for any purpose in any
20 proceeding, except only as required to obtain approval of and implement this Settlement and/or to
21 enforce this Settlement after final approval thereof is granted by the Court.

22 16. PAGA Settlement: The amount of Twenty Thousand Dollars (\$20,000.00) out of
23 the GSF shall be allocated to penalties under PAGA ("**PAGA Amount**"), subject to the Court's
24 final approval, of which 75% of that amount will be paid to the LWDA out of the GSF ("**LWDA**
25 **Payment**"), and the remaining 25% will be distributed to the "Aggrieved Employees" ("**Aggrieved**
26 **Employee Payment**"), subject to the further terms of this Agreement, below. For purposes of this
27 Settlement, "**Aggrieved Employee(s)**" shall have the same meaning and composition as the "Class."
28 The time period applicable to Aggrieved Employees' and the LWDA's release under PAGA is

1 December 25, 2020 through the date the Court grants final approval of the Settlement Agreement
2 or 120 days after the Court grants preliminary approval of the settlement, whichever occurs first (the
3 **“PAGA Period”**).

4 17. Attorneys’ Fees and Costs: **“Class Counsel”** or **“Plaintiff’s Counsel”** means
5 Nicholas J. Ferraro, Esq. and Lauren N. Vega, Esq. of Ferraro Vega Employment Lawyers, Inc.
6 Subject to approval of the Court, Plaintiff’s Counsel shall be appointed as counsel for the Class, and
7 may apply for an award of attorneys’ fees and costs and expenses incurred in connection with the
8 prosecution of this matter, and all of the work remaining to be performed by Class Counsel in
9 documenting the Settlement, securing Court approval of the Settlement (including all related
10 appellate work), carrying out their duties to see that the Settlement is fairly administered and
11 implemented, and obtaining entry of the final judgment approving this Settlement, dismissal of the
12 Class Action with prejudice and dismissal of the PAGA Action without prejudice, in an amount of
13 up to one-third (33 1/3%) of the GSF for attorneys’ fees and in an amount of up to \$40,000.00 for
14 reimbursement of reasonable costs and expenses (together, **“Attorneys’ Fees and Costs”**).
15 Amounts awarded by the Court for Attorneys’ Fees and Costs shall be paid from the GSF.

16 18. Enhancement Award: Subject to approval by the Court, Plaintiff shall be appointed
17 as representative of the Class, and he may each seek an award in the amount of up to \$10,000.00 in
18 consideration for serving as representative of the Class (**“Enhancement Award”**). The
19 Enhancement Award is in addition to the Individual Settlement Payment to which Plaintiff is
20 otherwise entitled as a Settlement Class Member.

21 19. In the event lesser sums are awarded for Attorneys’ Fees and Costs than those
22 referenced in Paragraph 17, above, or for the Enhancement Award referenced in Paragraph 18,
23 above, the approval by the Court of any such lesser sum(s) shall not be grounds for Plaintiff and/or
24 Class Counsel to terminate the Settlement, but such an order shall be appealable by them. In the
25 event that such an appeal is filed, administration of the Settlement shall be stayed pending resolution
26 of the appeal. Thereafter, if after the exhaustion of such appellate review, any additional amounts
27 remain that are distributable to the Participating Class Members, the cost of administration of such
28 additional payments will be paid out of such additional amounts and will not be chargeable to or

1 payable by Defendant. Any amount not awarded for Attorneys' Fees and Costs or the Enhancement
2 Award, but which is not challenged via appeal by Plaintiff and/or Class Counsel, shall be added to
3 the NSF and distributed to the Participating Class Members in accordance with the terms of this
4 Settlement Agreement.

5 20. Costs of Administration: Subject to Court approval, the Parties designate Simpluris
6 to administer the Settlement ("**Settlement Administrator**"), with a preliminary budget to
7 administer the settlement for fees and costs presently estimated at approximately \$15,000
8 ("**Settlement Administration Costs**"). The Settlement Administrator's duties of administration
9 shall include, without limitation, receiving the Class List to be produced by Defendant and updating
10 it prior to the Notice being mailed, printing and mailing the Notice, performing necessary additional
11 skip traces on Notices and/or checks returned as undeliverable, calculating Class Members'
12 estimated and final shares of the NSF, preparing and mailing of settlement checks, establishing a
13 settlement website as described hereafter, responding to Class Member inquiries as appropriate,
14 preparing any appropriate tax forms in connection with the settlement payments and remitting those
15 forms and any required payments to the appropriate governmental agencies, and generally
16 performing all normal and customary duties associated with the administration of such settlements.
17 All fees and costs for the Settlement Administrator's services will be paid out of the GSF.

18 21. No Claim Form Required: Only Participating Class Members shall share in the NSF
19 referred to in Paragraph **13**, as set forth in more detail in Paragraph **23** hereafter. Participating Class
20 Members shall not be required to complete a claim form. Class Members will be mailed a Notice
21 of Class Action Settlement ("**Notice**"), in substantially the form attached hereto as **Exhibit A**,
22 subject to approval by the Court, informing them of the terms of the Settlement and providing them
23 with an estimate of their share of the NSF. Class Members who do not timely and properly elect to
24 opt out of the Settlement ("**Participating Class Member(s)**") will be mailed a check representing
25 their payment under the Settlement, in accordance with the terms of this Settlement Agreement. The
26 time period applicable to Participating Class Members' release of the Released Claims (as defined
27 below) is May 13, 2017 through the date the Court grants final approval of the Settlement Agreement
28 or 120 days after the Court grants preliminary approval of the settlement, whichever occurs first (the

1 **“Class Release Period”).**

2 22. Class Size and Workweeks: If, as of the date of preliminary approval, the number of
3 workweeks for Participating Class Members during the Settlement Period exceeds 24,229 by more
4 than 10% (the “Buffer), then, at Defendant’s option, either (a) the GSF will be increased by an
5 amount for each additional workweek over the Buffer equal to the amount of the GSF divided by
6 26,651, or (b) the Settlement Period will end on the date at which the workweeks reached 26,651.

7 23. Calculation of Participating Class Members’ Shares of the Net Settlement Fund:
8 Defendant shall calculate and provide to the Settlement Administrator, from Defendant’s records as
9 reflected on the Class List (as defined below), the number of workweeks during which each Class
10 Member earned wages for actual work performed during the Settlement Period (**“Workweeks”**).
11 Each Class Member’s share of the NSF (**“Individual Settlement Share(s)”**) will be calculated
12 initially for purposes of mailing the Notice by multiplying the NSF by a fraction, the numerator of
13 which is the Class Member’s total number of Workweeks, and the denominator of which is the total
14 number of Workweeks of all Class Members. Each Participating Class Member’s final Individual
15 Settlement Share for purposes of payment will be calculated by multiplying the NSF by a fraction,
16 the numerator of which is the Participating Class Member’s total number of Workweeks, and the
17 denominator of which is the total number of Workweeks of all Participating Class Members. The
18 dollar amount of any Individual Settlement Shares of Class Members who timely and properly opt-
19 out of participating in the settlement will be added to the NSF and distributed to the Participating
20 Class Members in accordance with the terms of this Settlement Agreement.

21 24. Calculation of Aggrieved Employees’ Shares of the Aggrieved Employee Payment:
22 Defendant shall calculate and provide to the Settlement Administrator, from Defendant’s records as
23 reflected on the Class List (as defined below), the number of Pay Periods during which each
24 Aggrieved Employee earned wages for actual work performed during the PAGA Period (**“PAGA**
25 **Pay Periods”**). Aggrieved Employees will receive their pro rata share of the Aggrieved Employee
26 Payment of the PAGA Amount based on the number of PAGA Pay Periods during the PAGA Period,
27 regardless of whether they submit a timely and valid Request for Exclusion from the Settlement
28 Agreement.

1 25. Right to Opt Out, Object, and/or Dispute Wage Statements: The Notice will be
2 mailed to all Class Members and will advise each Class Member of their right to opt out of the
3 Settlement Agreement, object to all or any part of the Settlement Agreement, and/or dispute the
4 number of Workweeks credited to them. Any Class Member who wishes to opt out of the Settlement
5 Agreement as to the proposed class action settlement, object to the Settlement Agreement as to the
6 proposed class action settlement, and/or dispute the number of Workweeks credited to them for
7 purposes of the proposed class action settlement, must do so in writing to the Settlement
8 Administrator postmarked no later than forty-five (45) calendar days from the date of mailing of the
9 Notice to the Class Members (“**Response Deadline**”). However, there is no right to opt out of or
10 object to the PAGA settlement under this Settlement Agreement, and any Class Member who opts
11 out of the Settlement Agreement for purposes of the proposed class action settlement will still be
12 bound by the release of PAGA claims set forth in Paragraph **40**, below.

13 26. Opting Out of the Proposed Class Action Settlement: A request to opt out of and be
14 excluded from the proposed class action settlement under this Settlement Agreement (“**Request for**
15 **Exclusion**”) must include: (i) the full name, current mailing address, signature, and last four digits
16 of the Social Security number of the Class Member seeking exclusion; (ii) the case name and number
17 of the Litigation; and (iii) a statement that the Class Member seeks to be excluded from the
18 Settlement Agreement which is the same or substantially similar to the following language: “I elect
19 to opt-out of the *Evers v. La-Z-Boy, et al.* class action settlement. I understand that by doing so, I
20 will not participate in the settlement, and will not receive any money from it.” In the event that ten
21 percent (10%) or more of the Class Members submit a timely and valid Request for Exclusion,
22 Defendant will have the option to rescind and terminate the Settlement resulting in both Parties
23 returning to their pre-settlement positions in the Litigation. Should the 10% threshold for opt outs
24 be exceeded, the Settlement Administrator shall notify lead counsel for all Parties via email
25 immediately, and Defendant shall have ten (10) calendar days from the date of the Settlement
26 Administrator’s email to exercise its option to rescind and terminate the Settlement as referenced in
27 this Paragraph. Defendant, however, shall pay all Settlement Administration Costs incurred by the
28 Settlement Administrator up to the date of Defendant’s notice to rescind.

1 27. Objecting to the Proposed Class Action Settlement: An objection to the proposed
2 class action settlement under this Settlement Agreement (“**Objection**”), must include: (i) the full
3 name, current mailing address, signature, and last four digits of the Social Security number of the
4 objecting Class Member; (ii) the case name and number of the Litigation; (iii) a statement indicating
5 the legal and factual grounds for the objection; (iv) a statement indicating whether the objecting
6 Class Member is represented by counsel and identifying any such counsel; and (v) a statement
7 indicating whether the objecting Class Member intends to appear for and wishes to be heard at the
8 Final Approval Hearing.

9 28. Disputing Workweeks: A Class Member’s dispute of the number of Workweeks
10 credited to them and used to calculate the Class Member’s Individual Settlement Share for purposes
11 of the proposed class action settlement under this Settlement Agreement (“**Workweeks Dispute**”)
12 must include: (i) the full name, current mailing address, telephone number, signature, and last four
13 digits of the Social Security number of the disputing Class Member; (ii) the case name and number
14 of the Litigation; (iii) a statement indicating that the Class Member seeks to dispute the number of
15 Workweeks credited to them, the time period(s) the Class Member earned wages for actual work
16 performed for Defendant while working in California during the Settlement Period, and the number
17 of Workweeks that the Class Member contends should be credited to them; and (iv) documentation
18 and/or other facts supporting the Class Member’s position. In response to any timely Workweeks
19 Dispute, Defendant will first verify the information contained in the disputing Class Member’s
20 personnel file and Defendant’s payroll records. Unless the Class Member can establish that the
21 number of Workweeks credited to them is incorrect, by providing documentation in support thereof
22 or other details to substantiate their position, the total number of Workweeks established by
23 Defendant’s records will control. Class Counsel and Defendant’s Counsel will then make a good
24 faith effort to resolve the dispute informally before the Final Approval Hearing. If counsel for the
25 Parties cannot agree, the dispute shall be resolved by the Settlement Administrator before the Final
26 Approval Hearing, who shall examine the records provided by the Defendant and the Class Member
27 and shall be the final arbiter of disputes relating to a Class Member’s Workweeks for purposes of
28 administering notice of the Settlement, subject to final review, determination, and approval by the

1 Court.

2 29. Funding of Settlement: Within fifteen (15) calendar days following the occurrence
3 of the Effective Date of the Settlement as defined above, Defendant shall transfer the amount of the
4 GSF to a Qualified Settlement Fund account (“**Settlement Account**”) established by the Settlement
5 Administrator. Thereafter, the Settlement Administrator shall distribute the funds as soon as is
6 practical in accordance with the terms of this Settlement Agreement and as ordered by the Court.
7 No funds will be payable by Defendant prior to that time.

8 30. Payment Procedures: Within ten (10) business days after Defendant deposits the
9 GSF into the Settlement Account created by the Settlement Administrator, the Settlement
10 Administrator shall distribute payment of the approved Individual Settlement Payments to
11 Participating Class Members (as provided in Paragraph **23**, above), Aggrieved Employee PAGA
12 Payments to Aggrieved Employees (as provided in Paragraph **24**, above), Attorneys’ Fees and Costs
13 to Class Counsel, Enhancement Award to the Class Representative, LWDA Payment to the LWDA,
14 and Settlement Administration Costs to the Settlement Administrator, in accordance with this
15 Settlement Agreement and as ordered by the Court.

16 31. Tax Treatment of Settlement Payments: Each Individual Settlement Share will be
17 allocated 25% W-2 wages (the “**Wages Portion**”), and 25% statutory and other non-wage damages,
18 25% statutory penalties and 25% interest (collectively, and exclusive of the Wages Portion, the
19 “**Non-Wages Portion**”). Each Aggrieved Employee Payment will be allocated 100% as civil
20 penalties.

21 32. Each recipient of any monies paid in accordance with this Settlement Agreement is
22 responsible for any taxes associated with the monies received by each recipient.

23 33. If required by state or federal tax requirements, the Settlement Administrator will
24 prepare a Form W-2 and/or 1099 for Settlement Class Members for the Wages Portion and Non-
25 Wages Portion of their Individual Settlement Share and/or Aggrieved Employees for their
26 Aggrieved Employee Payment. The Settlement Administrator will be responsible for preparing
27 these forms timely and correctly. Settlement Class Members and Aggrieved Employees will be
28 responsible for correctly characterizing the compensation that they receive pursuant to the Form W-

1 2 and 1099 and for payment of any taxes owing on said amount.

2 34. The Parties acknowledge and agree that neither they nor their attorneys have made
3 any representations regarding the tax consequences of any and all payments made under this
4 Settlement Agreement. Settlement Class Members and Aggrieved Employees will be required to
5 pay all federal, state, or local taxes, if any, which are required by law to be paid with respect to any
6 and all payments made to them under the Settlement. The Parties further agree that Defendant shall
7 have no legal obligation to pay, on behalf of Settlement Class Members or Aggrieved Employees,
8 any taxes, deficiencies, levies, assessments, fines, penalties, interest or costs, which may be required
9 to be paid with respect to the settlement payments.

10 35. Tax Treatment of Enhancement Award and Class Counsel's Award of Attorneys'
11 Fees and Costs: The Class Representative and Class Counsel will receive an IRS Form 1099 for the
12 Class Representative's Enhancement Award and Class Counsel's award of Attorneys' Fees and
13 Costs, which will be prepared by the Settlement Administrator. The Class Representative and Class
14 Counsel will be solely responsible for correctly characterizing this compensation for tax purposes
15 and for payment of any taxes owing on said amounts. Prior to receiving the payments specified
16 herein, the Class Representative and Class Counsel each shall deliver to the Settlement
17 Administrator any necessary tax forms requested by the Settlement Administrator.

18 36. Undistributed Funds: Individual Settlement Payment checks will remain valid and
19 negotiable for one hundred and eighty (180) days after the date of issuance. If an Individual
20 Settlement Payment check is returned before the expiration of the 180-day period ("**Returned**
21 **Check**"), then, within five (5) days of receipt of the Returned Check, the Settlement Administrator
22 shall undertake a skip-trace search for an alternate mailing address and re-mail the Returned Check
23 to an alternate mailing address (if one is located), under a cover letter indicating that the Returned
24 Check will continue to be valid and negotiable for thirty (30) days after the date of re-mailing. In
25 the event that any checks mailed to Settlement Class Members are not cashed, deposited, or
26 otherwise negotiated within the 180-day period, no forwarding address can be located for a Returned
27 Check, or a Returned Check is re-mailed but not cashed, deposited, or otherwise negotiated within
28 the 30-day period from the re-mailing of the Returned Check, then the checks shall be cancelled by

1 the Settlement Administrator, and the funds associated with such cancelled checks shall be
2 transmitted by the Settlement Administrator pursuant to governing law to the California State
3 Controller Unclaimed Property fund to be held there for the benefit of such Class Members under
4 California's escheatment laws, and such Class Members shall nevertheless be bound to the
5 Settlement and the Final Approval Order. The Parties agree this disposition results in no "unpaid
6 residue" under California Code of Civil Procedure § 384(b), as the entire NSF shall be paid to
7 Participating Class Members, whether or not their Individual Settlement Payment checks are cashed.

8 **NOTICE TO THE CLASS**

9 37. Compilation of Class List: The Parties agree that within thirty (30) calendar days
10 after preliminary approval of this Settlement Agreement by the Court, Defendant will provide a final
11 "**Class List**" to the Settlement Administrator, which list shall include the following most up to date
12 information about each Class Member in an electronic format: (a) full name; (b) most current
13 mailing address and phone number as reflected in Defendant's personnel records; (c) Social Security
14 Number; (d) hire date of record with Defendant and termination date of record if applicable; (e)
15 number of Workweeks for each Class Member during the Settlement Period; and (f) number of
16 PAGA Pay Periods for each Aggrieved Employee during the PAGA Period. The Class List provided
17 to, updated and maintained by the Settlement Administrator shall be used only by the Settlement
18 Administrator and only for purposes of administering the settlement as provided for in this
19 Agreement, and the Settlement Administrator shall not disclose the contents thereof except as
20 expressly permitted under this Agreement. The restrictions on the use and disclosure of the Class
21 List and the Class Data List (as defined below) shall be deemed, upon entry of the Court's Order
22 granting preliminary approval of this Settlement, to be a protective order entered by the Court
23 subject to full enforcement by the Parties to this Agreement and the Court, and by taking on the
24 administration of the Settlement, the Settlement Administrator agrees that it and its employees,
25 agents and representatives are bound by such protective order. The Settlement Administrator will
26 update addresses contained in the Class List prior to the mailing of the Notice to the Class, by using
27 the U.S. Postal Service's National Change of Address Database. Once the final Class List has been
28 received from Defendant, and updated as stated herein, the list shall then be referred to as the "**Class**"

1 **Data List.”** In response to any contention by an individual that they are a Class Member who was
2 omitted from the Class Data List, made on or before the Response Deadline, Defendant will first
3 verify the information contained in the personnel file of the individual at issue and Defendant’s
4 payroll records. Unless the individual at issue can establish that they should have been included in
5 the Class Data List, by way of supporting documentation, Defendant’s records will control. Class
6 Counsel and Defendant’s Counsel will then make a good faith effort to determine whether or not
7 the individual at issue is a Class Member. If counsel for the Parties cannot agree, then the Settlement
8 Administrator shall determine whether the individual at issue is a Class Member, who shall examine
9 the records provided by the Defendant and the individual at issue, and shall be the final arbiter of
10 whether or not the individual at issue is a Class Member, subject to final review, determination, and
11 approval by the Court. Nothing herein limits the provisions or applicability of Paragraph **23**, above.

12 38. Dissemination of Notice of Class Action Settlement: Within ten (10) business days
13 of its receipt of the Class List, the Settlement Administrator will send the Notice to the Class
14 Members, by first-class mail, at their most current address of record or such other address as located
15 by the Settlement Administrator in conformity with Paragraph **37**, in the form attached hereto as
16 **Exhibit A** or as otherwise approved by the Court.

17 **RELEASE BY PARTICIPATING CLASS MEMBERS**
18 **AND BY THE LWDA AND AGGRIEVED EMPLOYEES**

19 39. Release by Participating Class Members:

20 a. The “**Released Parties**” shall mean and include LZB Retail, Inc., d/b/a La-Z-Boy
21 and its affiliates, parent companies (including La-Z-Boy Incorporated), subsidiaries, shareholders,
22 officers, partners, directors, members, owners, servants, employees, employers, agents,
23 contractors, attorneys, insurers, predecessors, representatives, accountants, executors, successors,
24 and assigns, past, present, and future, and each and all of their respective shareholders, officers,
25 partners, directors, members, owners, servants, employees, employers, agents, contractors,
26 attorneys, insurers, predecessors, representatives, accountants, executors, successors, assigns, and
27 pension, profit sharing, retirement savings, health and welfare, and any other employee benefit
28 plans of any nature and the respective trustees, administrators, sponsors, fiduciaries, successors,

1 agents, and employees of all such plans, past, present, and future, and all persons acting under, by,
2 through, or in concert with any of them.

3 b. The “**Released Claims**” shall mean and include any and all allegations, claims,
4 debts, rights, demands, charges, complaints, actions, causes of action, guarantees, costs, expenses,
5 attorneys’ fees, economic damages, non-economic damages, restitution, civil penalties, statutory
6 penalties, liquidated damages, punitive damages, interest, obligations, liabilities, or other monies
7 and remedies, of any and every kind, contingent or accrued, that have been or could have been
8 alleged or asserted in any of the pleadings that have been filed in the Actions based on the facts,
9 theories and/or violations alleged therein and any related notices sent to the LWDA, and all
10 violations asserted or that could have been asserted in any notices sent to the LWDA referenced in
11 any of those pleadings based on the facts and/or theories alleged in such notices, during the Class
12 Release Period, including claims for or based on any type of unpaid or underpaid minimum, regular,
13 overtime or other wages; failure to provide, authorize or permit compliant meal and rest periods or
14 to pay premiums at the correct rate or at all for non-compliant meal and rest periods; failure to
15 properly provide or pay sick leave; failure to properly provide or pay vacation; failure to pay any
16 wages timely or at all during and/or upon termination of employment; failure to provide accurate
17 itemized wage statements; failure to reimburse any business expenses; failure to permit timely
18 inspection of personnel, payroll or other employment records; derivative violations of the
19 California Unfair Competition Law and/or relief available under PAGA; and failure to pay all
20 wages in compliance with the Fair Labor Standards Act, or otherwise based in whole or in part on
21 any direct or imputed violation of any federal, state, local or administrative constitution, charter,
22 law, rule, regulation or ordinance.

23 c. Upon the Settlement Administrator’s receipt of the GSF from Defendant, Plaintiff
24 and the Participating Class Members shall be deemed to have released the Released Parties of and
25 from all Released Claims that arose, accrued and/or have been asserted during the Settlement
26 Period.

27 40. Release by the LWDA and the Aggrieved Employees: Upon the Settlement
28 Administrator’s receipt of the GSF from Defendant, Plaintiff, the LWDA and the Aggrieved

1 Employees shall be deemed to have released the Released Parties of and from all claims for any
2 civil penalties recoverable under the California Labor Code, including PAGA, as well as costs and
3 attorneys' fees related thereto, predicated on any violations alleged or asserted in the Actions and/or
4 any related notices sent to the LWDA referenced therein.

5 **ADDITIONAL RELEASE BY CLASS REPRESENTATIVE**

6 41. In addition to the releases set forth in Paragraphs 39 and 40, Plaintiff, for himself
7 alone as an individual, releases the Released Parties of and from any and all claims, debts, liabilities,
8 demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, actions or causes of
9 action of every kind or nature, contingent or accrued, which do or may exist as of the date of the
10 execution of this Settlement Agreement and through and including the date of Final Approval of
11 this Settlement Agreement, including without limitation any claimed violations of the California
12 Labor Code. In connection therewith, Plaintiff waives the provisions of California Civil Code
13 Section 1542, which states:

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

20 **INJUNCTION BARRING PURSUIT OF RELEASED CLAIMS**

21 42. As part of the Final Approval of the Settlement, Plaintiff, Participating Class
22 Members, the LWDA and Aggrieved Employees shall be enjoined from filing, initiating, or
23 continuing to prosecute any actions, claims, complaints, or proceedings in court, arbitration, with
24 the California Division of Labor Standards Enforcement ("DLSE"), with the LWDA, or with any
25 other entity, with respect to the claims released as described in Paragraphs 39 and 40, above. This
26 settlement is conditioned upon the release by Participating Class Members, Plaintiff, Aggrieved
27 Employees, and the LWDA as described in Paragraphs 39 and 40, above, and upon covenants by
28 each of them that they will not and cannot bring or participate in any actions, lawsuits, proceedings,

1 complaints, or charges brought individually, by the DLSE, the LWDA, or by any other agency,
2 persons or entity in any court, arbitration or before any administrative body with respect to the
3 claims released as described in Paragraphs **39** and **40**, above, nor will any of them contest or interfere
4 with efforts by Defendant or by any other Released Parties to oppose any attempt to bring such
5 released claims against any of them. Additionally, it is agreed herein that neither injunctive nor
6 declaratory relief, nor any equitable relief, will be ordered by the Court against Defendant in Final
7 Approval of the Settlement, which will otherwise be grounds for Defendant rescinding and
8 terminating this Settlement Agreement.

9 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

10 43. The Parties shall promptly seek the Court's approval of this Settlement. Plaintiff's
11 counsel will prepare Plaintiff's motion for preliminary approval. Not later than five (5) court days
12 prior to the submission of the motion for preliminary approval of this Settlement Agreement to the
13 Court, Class Counsel will submit a near-final draft thereof (including all supporting papers and
14 proposed order) to counsel for Defendant for their review and comment. As soon as practicable
15 after execution of this Settlement Agreement, the Class Representative and Class Counsel shall
16 apply to the Court for the entry of a preliminary approval order which would accomplish the
17 following:

- 18 a. Schedule a hearing ("**Final Approval Hearing**") on the question of whether
19 the Settlement, including, *inter alia*, the payment of Attorneys' Fees and
20 Costs, Enhancement Award, and PAGA Amount should be finally approved
21 as fair, reasonable, and adequate, and finally resolving any outstanding issues
22 or disputes remaining from the administration of the notice of the settlement;
- 23 b. Conditionally certify the Class for purposes of the Settlement only;
- 24 c. Approve, as to form and content, the proposed Notice;
- 25 d. Direct the mailing of the Notice by first class mail to the Class Members;
- 26 e. Preliminarily approve the Settlement and monetary allocations for
27 awards/payments of Attorneys' Fees and Costs, Settlement Administration
28 Costs, Enhancement Award, and PAGA Amount, subject to the final review

1 and approval by the Court;

2 f. Preliminarily approve Simpluris as the Settlement Administrator;

3 g. Preliminarily approve and appoint Plaintiff as representative of the Class; and

4 h. Preliminarily approve and appoint Plaintiff's Counsel as counsel for the
5 Class.

6 44. Plaintiff's Counsel shall be responsible for ensuring that all required submittals and
7 notifications to the LWDA under PAGA regarding this Settlement are made by Plaintiff, and shall
8 submit evidence thereof to the Court with his motion for preliminary approval of this Settlement
9 Agreement.

10 **DUTIES OF THE PARTIES FOLLOWING PRELIMINARY APPROVAL**

11 45. Plaintiff's counsel will prepare Plaintiff's motion for final approval. Not later than
12 five (5) calendar days prior to the submission of the motion seeking Final Approval, Class Counsel
13 will submit a near-final draft thereof (including all supporting papers and proposed order) to counsel
14 for Defendant for their review and comment. In conjunction with the request for Final Approval of
15 the Settlement provided for in this Settlement Agreement, Class Counsel will submit a proposed
16 Final Approval Order and Judgment that provides for the following:

17 a. Granting final approval of the Settlement, adjudging the terms thereof to be
18 fair, reasonable, and adequate, and directing consummation of its terms and
19 provisions;

20 b. Approving and awarding Attorneys' Fees and Costs to Class Counsel;

21 c. Approving and awarding the Enhancement Award to the Class
22 Representative;

23 d. Approving and awarding all payments specified in this Settlement Agreement
24 to the LWDA, Aggrieved Employees, and Participating Class Members;

25 e. Permanently enjoining and restraining Plaintiff, Participating Class
26 Members, Aggrieved Employees, and the LWDA from and against initiating
27 or pursuing any claims settled herein and released by this Settlement
28 Agreement; and

1 f. Entering judgment in accordance with the terms of this Settlement
2 Agreement, including without limitation the permanent injunction
3 provisions.

4 **PARTIES' AUTHORITY**

5 46. The signatories hereto hereby represent that they are fully authorized to enter into
6 this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

7 **MUTUAL FULL COOPERATION**

8 47. The Parties agree to fully cooperate with each other to accomplish the terms of this
9 Settlement Agreement, including but not limited to execution of such documents and to take such
10 other actions as may reasonably be necessary to implement the terms of this Settlement Agreement.
11 The Parties shall use their best efforts, including all efforts contemplated by this Settlement
12 Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to
13 effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after
14 execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
15 Defendant and its counsel, take all necessary steps to secure the Court's preliminary approval and
16 final approval of this Settlement Agreement.

17 **NO PRIOR ASSIGNMENTS**

18 48. The Parties hereto represent, covenant, and warrant that they have not, directly or
19 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
20 person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein
21 released and discharged except as set forth herein.

22 **CONSTRUCTION**

23 49. The Parties hereto agree that the terms and conditions of this Settlement Agreement
24 are the result of lengthy, intensive, arms-length mediated negotiations between the Parties,
25 conducted under the auspices of mediator Michael Dickstein, a highly respected and experienced
26 class action mediator. The Parties further agree that they have each had a full opportunity to
27 negotiate the terms and conditions of this Agreement. Accordingly, the Parties expressly waive the
28 common-law and statutory rule of construction that ambiguities should be construed against the

1 drafter of an agreement, and agree, covenant, and represent that the language in all parts of this
2 Agreement shall be in all cases construed as a whole, according to its fair meaning.

3 **CAPTIONS AND INTERPRETATIONS**

4 50. Paragraph titles or captions contained herein are inserted as a matter of convenience
5 and for reference, and in no way define, limit, extend, or describe the scope of this Settlement
6 Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not
7 merely a recital.

8 **MODIFICATION**

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

13 **INTEGRATION CLAUSE**

14 52. This Settlement Agreement contains the entire agreement between the Parties
15 relating to the settlement and the transaction contemplated hereby, and all prior or contemporaneous
16 agreements, understandings, representations, and statements, whether oral or written and whether
17 by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived
18 except in writing.

19 **BINDING ON ASSIGNS**

20 53. This Settlement Agreement shall be binding upon and inure to the benefit of the
21 Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

22 **SIGNATORIES**

23 54. It is agreed that because of the large number of Participating Class Members, it is
24 impossible or impractical to have each Participating Class Member execute this Settlement
25 Agreement. As such, Plaintiff is signing on behalf of the Participating Class Members. In addition,
26 the Notice will advise all Participating Class Members of the binding nature of the release of claims
27 under the Settlement and that such shall have the same force and effect as if this Settlement
28 Agreement were executed by each Participating Class Member.

1 **CONFIDENTIALITY**

2 55. Plaintiff and Class Counsel will maintain the proposed settlement and this Settlement
3 Agreement as confidential and not publicly disclose the same except as set forth herein and in
4 Paragraph 56, below. Except as set forth in Paragraph 56, below, or as otherwise agreed in writing
5 between the Parties, both before and following the execution of this Settlement Agreement by the
6 Parties and their counsel, there will be no direct or indirect comment or publication by Plaintiff and
7 Class Counsel (lead or otherwise) of the settlement in terms of affirmative or responsive media
8 statements/comments, press releases or conferences, website postings or content, social media
9 postings or content, other Internet postings or content, subscribed email messages, newsletters,
10 disseminated updates, mass mailings, or any other comment or publication to the press, media or
11 public at large. This shall not apply to or limit the public filing of motions or other case materials
12 by Class Counsel in the Litigation related to seeking and obtaining Court approval of the proposed
13 settlement and the related awards of attorneys' fees and costs, enhancements and the other relief set
14 forth in this Settlement Agreement, or to communications between Class Counsel, Plaintiff, and/or
15 Class Members in the Litigation, except that prior to the filing of the motion for preliminary approval
16 of the Settlement in the Litigation, Class Counsel shall not discuss the Settlement with Class
17 Members other than the named Plaintiff. Class Counsel may otherwise state only that the Litigation
18 has been settled on terms mutually agreeable to the Parties. The Parties understand and agree that
19 there may be media coverage of the settlement of the Litigation not initiated by Plaintiff, directly or
20 indirectly. It is also agreed and understood that the Parties may disclose the settlement to their
21 families, plus their legal, tax, or accounting advisors, insurance companies, or as required by law,
22 regulatory rules or regulatory requirements.

23 **WEBSITE**

24 56. The Parties agree that the Settlement Administrator may use U.S. Mail and an
25 information-only website ("**Settlement Website**") to provide notice and information about the
26 Settlement to Class Members, if required by the Court or requested by the Parties. Any Settlement
27 Website is to be established by the Settlement Administrator solely for purposes of the
28 administration of the Settlement, and the domain name used for the website will be subject to

1 Defendant's reasonable approval. Not later than the date that the Settlement Administrator must
2 remit any funds associated with cancelled Individual Settlement Payment checks, as set forth in
3 Paragraph 36, the Settlement Website will be taken down. No new information about the settlement
4 may be posted on any of Class Counsel's websites except as expressly set forth herein without
5 Defendant's prior written consent, and the information about the Action currently posted on Class
6 Counsel's law firm website will be removed within 60 calendar days after the Effective Date.

7 **COUNTERPARTS**

8 57. This Settlement Agreement may be executed in counterparts, and when each Party
9 has signed and delivered at least one such counterpart, each counterpart shall be deemed an original,
10 and, when taken together with other signed counterparts, shall constitute one Settlement Agreement,
11 which shall be binding upon and effective as to all Parties.

12 **GOVERNING LAW**

13 58. The Parties agree that California law governs the interpretation and application of
14 this Settlement Agreement, except to the extent governed by federal law in which case federal law
15 will apply.

16 **MISCELLANEOUS PROVISIONS**

17 59. Each Party to Bear Own Costs. Except as specifically provided herein, the Parties
18 hereto will bear responsibility for their own attorneys' fees and costs, taxable or otherwise, incurred
19 by them or arising out of or related to this Litigation, and will not seek reimbursement thereof from
20 any Party to this Agreement.

21 60. Severability. If any of the above provisions are found null, void, or inoperative, for
22 any reason, the remaining provisions will remain in full force and effect. Notwithstanding, the
23 invalidation in whole or in part of any material term of this Agreement, including but not limited to
24 all the terms and provisions specified in the releases of claims, will invalidate this Agreement in its
25 entirety unless the Parties subsequently agree in writing that the remaining provisions will remain
26 in force and effect.

27 61. Non-Evidentiary Use. Neither the fact of this Agreement, the existence of this
28 Agreement, the terms of this Agreement, nor any order or action pursuant thereto may be referred

1 to, relied upon, cited, or used as evidence by any of the Parties, Class Members, or their respective
2 counsel in the Litigation or in any other action or proceeding; provided, however, that nothing
3 contained in this section shall prevent this Agreement from being used, offered, or received in
4 evidence in any proceeding to enforce, construe, or finalize this Agreement.

5 62. Advice of Counsel. The Parties to this Agreement are represented by competent
6 counsel, and they have had an opportunity to consult with counsel. The Parties to this Agreement
7 agree that it reflects their good faith compromise of the claims raised in this action, based upon their
8 assessment of the mutual risks and costs of further litigation and the assessments of their respective
9 counsel.

10
11 EACH OF THE UNDERSIGNED ACKNOWLEDGE THAT EACH HAS READ THE
12 FOREGOING AGREEMENT AND ACCEPTS AND AGREES TO THE PROVISIONS
13 CONTAINED THEREIN, AND HEREBY EXECUTES IT VOLUNTARILY WITH FULL
14 KNOWLEDGE OF ITS CONSEQUENCES.

15
16 **IT IS SO STIPULATED AND AGREED:**

17
18 DATED: _____

DUSTIN EVERS
Plaintiff and Proposed Class Representative

19
20 DATED: 2/16/2024 | 6:08 PM EST

LZB RETAIL, INC. d/b/a LA-Z BOY

21 By: Raphael Richmond
AF2006DC06F0409...

22 Name: Raphael Richmond

23 Title: Vice President and General Counsel
24
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AGREED AND APPROVED AS TO FORM AND CONTENT:

DATED: _____

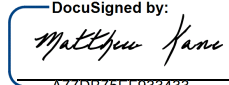
**FERRARO VEGA EMPLOYMENT LAWYERS,
INC.**

By: _____
Nicholas J. Ferraro, Esq.
Lauren N. Vega, Esq.

Attorneys for Plaintiff DUSTIN EVERS

DATED: 2/15/2024 | 11:57 PM EST

BAKER & HOSTETLER LLP

By:  _____
Matthew C. Kane, Esq.
Sylvia J. Kim, Esq.
Amy E. Beverlin, Esq.
Kerri H. Sakaue, Esq.

Attorneys for Defendant LZB RETAIL, INC. d/b/a
LA-Z-BOY.

1 to, relied upon, cited, or used as evidence by any of the Parties, Class Members, or their respective
2 counsel in the Litigation or in any other action or proceeding; provided, however, that nothing
3 contained in this section shall prevent this Agreement from being used, offered, or received in
4 evidence in any proceeding to enforce, construe, or finalize this Agreement.

5 62. Advice of Counsel. The Parties to this Agreement are represented by competent
6 counsel, and they have had an opportunity to consult with counsel. The Parties to this Agreement
7 agree that it reflects their good faith compromise of the claims raised in this action, based upon their
8 assessment of the mutual risks and costs of further litigation and the assessments of their respective
9 counsel.

10
11 EACH OF THE UNDERSIGNED ACKNOWLEDGE THAT EACH HAS READ THE
12 FOREGOING AGREEMENT AND ACCEPTS AND AGREES TO THE PROVISIONS
13 CONTAINED THEREIN, AND HEREBY EXECUTES IT VOLUNTARILY WITH FULL
14 KNOWLEDGE OF ITS CONSEQUENCES.

15
16 **IT IS SO STIPULATED AND AGREED:**

17
18 DATED: Feb 16, 2024

Dustin Evers

DUSTIN EVERS
Plaintiff and Proposed Class Representative

19
20 DATED: _____

LZB RETAIL, INC. d/b/a LA-Z BOY

By: _____

Name: _____

Title: _____

1 **AGREED AND APPROVED AS TO FORM AND CONTENT:**

2
3 DATED: Feb 16, 2024

**FERRARO VEGA EMPLOYMENT LAWYERS,
INC.**

4
5 By: Nicholas J. Ferraro

Nicholas J. Ferraro, Esq.
Lauren N. Vega, Esq.

6
7 *Attorneys for Plaintiff* DUSTIN EVERS

8 DATED:

BAKER & HOSTETLER LLP

9
10 By: _____

Matthew C. Kane, Esq.
Sylvia J. Kim, Esq.
Amy E. Beverlin, Esq.
Kerri H. Sakaue, Esq.

11
12
13 *Attorneys for Defendant* LZB RETAIL, INC. d/b/a
14 LA-Z-BOY.

Dustin Evers et al. v. LZB Retail, Inc. d/b/a La-Z-Boy et al.
Superior Court of the State of California for the County of San Diego
(Case No. 37-2021-00047960-CU-OE-CTL)

NOTICE OF CLASS ACTION SETTLEMENT (“NOTICE”)

IF YOU ARE A CURRENT OR FORMER EMPLOYEE OF LZB RETAIL, INC. (“DEFENDANT”) IN THE STATE OF CALIFORNIA YOU MAY BE ABLE TO COLLECT MONEY FROM A CLASS ACTION SETTLEMENT.

The San Diego County Superior Court (“Court”) authorized this Notice to be sent by Simpluris (“Settlement Administrator”). This is not an advertisement. This is not a solicitation from a lawyer.

PLEASE KEEP THE SETTLEMENT ADMINISTRATOR INFORMED OF YOUR ADDRESS IF YOU MOVE AFTER RECEIVING THIS NOTICE.

«BarcodeString»
SIMID «SIMID»

ATTN: «FirstName» «LastName»
«Address1» «Address2»
«City» «Abbrev» «Zip»

**YOU ARE ESTIMATED TO RECEIVE
APPROXIMATELY
\$«MERGED_EstSettAmnt_CALC»
THROUGH THIS CLASS ACTION
SETTLEMENT**

- Dustin Evers (“Named Plaintiff”) has sued Defendant on behalf of himself and all other similarly situated employees.
- The parties to the lawsuit have reached a tentative settlement, and the Court has preliminarily approved it.
- The settlement resolves the lawsuit.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

You Can DO NOTHING	You will receive a payment from the settlement. If you do nothing, you continue your participation in this lawsuit, and you will be impacted by the outcome of this case. You will receive a settlement payment; however, you will lose any rights to sue Defendant separately for the same legal claims released by the settlement made in the lawsuit. The currently estimated amount of your settlement payment is shown above. To receive your settlement payment, all you need to do is keep the Settlement Administrator informed of your current mailing address. Once the Court grants final approval of the settlement, the Settlement Administrator will make a final calculation of the amount of your settlement payment and mail your check to the address on file for you. Defendant has approved this Settlement and will not retaliate against you for participating in the Settlement.
You Can ASK TO BE EXCLUDED FROM THE CLASS SETTLEMENT (Deadline: , 2024)	If you ask to be excluded from the class settlement, you will get no payment from the class settlement amount, but you will keep any rights to sue Defendant separately for the same legal claims that otherwise would have been released by the settlement made in this lawsuit, subject to whatever defenses there may be to those claims, other than the PAGA claim.

	However, you may not request exclusion from the settlement of the PAGA claim. Important: You cannot ask to be excluded <u>and</u> still get a settlement payment.
You Can OBJECT TO THE SETTLEMENT	If you do not like the class settlement, you can send a written objection to the Settlement Administrator by the deadline, or you can appear at the Final Approval Hearing to make your objection in person. If your objection is overruled, you will still be bound by the terms of the settlement and will receive a settlement payment. However, you may not object to the settlement of the PAGA claim. Important: If you object to the settlement, you cannot also ask to be excluded.

THESE RIGHTS AND OPTIONS—AND THE DEADLINES TO EXERCISE THEM—ARE EXPLAINED IN THIS NOTICE.

The Court is in charge of this lawsuit and still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after appeals, if any, are resolved. **Please be patient.**

1. Why Should You Read This Notice?

You should read this Notice because you may be entitled to money from a class action settlement.

2. What is this Lawsuit About?

In the lawsuit, the Named Plaintiff has asserted class-wide claims for violations of the California Labor Code for (1) minimum wage violations, (2) failure to pay all overtime wages, (3) meal period violations, (4) rest period violations, (5) paid sick leave violations, (6) unpaid vacation wages, (7) untimely payment of wages, (8) wage statement violations, (9) waiting time penalties, (10) failure to reimburse business expenses, and (11) unfair competition. The Named Plaintiff also asserted a representative action claim against Defendant under the California Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”), predicated on those alleged violations of the California Labor Code.

Defendant denies the allegations in the lawsuit. Defendant asserts it is in compliance with all legal requirements and is resolving this action in order to avoid the risk and costs of further legal proceedings.

3. Why is this a Class Action?

This lawsuit is a class action. In a class action, one or more persons, called a class representative (in this case, Dustin Evers), sue on behalf of people who allegedly have similar claims. All these people are a class or class members. One case resolves the issues for all class members, except for those who exclude themselves from the class. The San Diego County Superior Court is in charge of the case. The lawsuit is known as *Evers v. LZB Retail, Inc., et al.*, Case No. 37-2021-00047960-CU-OE-CTL.

4. Why is there a Settlement?

The Court did not decide in favor of Named Plaintiff or Defendant. Named Plaintiff thinks he could have won at

trial. Defendant thinks that it would have won at trial. But there was no trial. Instead, the parties agreed to a settlement. That way, they avoid the risks and cost of litigation, and the individuals potentially affected will get compensation. The class representatives and the attorneys think the settlement is best for Class Members.

5. How Do I Know If I Am Part of the Settlement?

The Court has decided that the following individuals are Class Members:

All current and former non-exempt employees employed by Defendant in California at any time during the time period from May 13, 2017 through the date the Court grants preliminary approval of the settlement (the “**Settlement Period**”), but excluding anyone who has filed their own separate action as a named Plaintiff alleging the same or similar claims being released by the settlement and/or who has previously released such claims. (“Class”).

Expressly excluded from the Class are any individuals who, as of [date the Court granted preliminary approval of the settlement], have filed a pending, separate lawsuit as a named plaintiff, individually and/or as a putative class or representative action, asserting claims based on violations of any of the same statutes and/or regulations as those alleged to have been violated in the lawsuit and/or who have released such claims.

6. What Does the Settlement Provide?

The proposed settlement provides for a cash payment by Defendant of \$1,075,000.00 to fully and finally resolve all claims in the lawsuit (referred to as the “Settlement Fund”). The total amount to be distributed to Class Members who can be located and who do not exclude themselves from the settlement will be the value of the Settlement Fund after deducting the following (the “Net Settlement Fund”): (a) settlement administration costs presently budgeted to be up to \$15,000 (b) Enhancement Award in the amount of \$10,000 to Named Plaintiff for his work and efforts in prosecuting this case, providing a general release, and for undertaking the risks of a costs award against him (in the event the outcome of this lawsuit was not favorable); (c) Class Counsel’s attorneys’ fees not to exceed \$358,333.33; (d) Class Counsel’s actual litigation costs and expenses as supported by declaration not to exceed \$40,000 and (f) PAGA Amount of \$20,000 for alleged civil penalties owed pursuant to the California Labor Code Private Attorneys General Act. **Class Counsel’s attorneys’ fees and costs and Named Plaintiff’s Enhancement Award remain subject to Court approval.**

By statute, the Labor and Workforce Development Agency will receive 75% of the PAGA Amount —*i.e.* the amount of \$15,000. Each Class Member will receive a portion of the remaining 25% of the PAGA Amount (“Aggrieved Employee Payment”).

No portion of the Net Settlement Fund will be returned to Defendant under any circumstances. Instead, any unclaimed settlement proceeds will be transferred to the California Secretary of State Controller’s Office—Office of Unclaimed Property Fund under the unclaimed property laws in the name of the Class Member.

7. How Much Will My Payment Be?

Your currently estimated share of the Net Settlement Fund is set forth on the first page above.

This amount is based on the number of Workweeks during which you earned wages for actual work performed in California during the Settlement Period, as compared to the total number of Workweeks during which the Class earned wages for actual work performed in California during the Settlement Period during the Settlement Period.

Based on Defendant's records, the number of Workweeks you earned wages for actual work performed in California during the Settlement Period is <<Workweeks>>.

If this information appears correct, you do not need to do anything further to receive your settlement payment. If you disagree with the number of pay periods identified, see below (Question 9).

8. How Do I Get a Payment?

To qualify for payment, you need not do anything. Following the Effective Date of final approval of the settlement, Defendant will submit the Settlement Fund to the Settlement Administrator. The Settlement Administrator will mail you a check after Defendant submits payment of the Settlement Fund to the Settlement Administrator.

9. What If I Believe the Information is Inaccurate?

If you believe the number of pay periods reflecting the payment of Earnings credited to you is inaccurate, you may dispute it by sending a letter to Simpluris, [INSERT ADDRESS] no later than [RESPONSE DEADLINE]. Be sure to include: (i) your full name, current mailing address, telephone number, signature, and last four digits of your Social Security number; (ii) the case name (*Evers v. LZB Retail, Inc., et al.*) and case number (37-2021-00047960-CU-OE-CTL); and (iii) a statement indicating that you seek to dispute the number of Workweeks credited to you, the time period(s) earned wages for actual work performed in California during the Settlement Period, and the number of Workweeks that you contend should be credited to you. Also attach a copy of any documentation you want to include to support your dispute.

10. What Am I Giving Up to Get a Class Settlement Payment?

Unless you request to be excluded from the class settlement, you will be a Participating Class Member.

If you are a Participating Class Member, you will be giving up or "releasing" Defendant and the Released Parties from the following for the period of May 13, 2017 through the date the Court grants final approval of the Settlement Agreement or 120 days after the Court grants preliminary approval of the settlement, whichever occurs first (the "**Class Release Period**"):

any and all allegations, claims, debts, rights, demands, charges, complaints, actions, causes of action, guarantees, costs, expenses, attorneys' fees, economic damages, non-economic damages, restitution, civil penalties, statutory penalties, liquidated damages, punitive damages, interest, obligations, liabilities, or other monies and remedies, of any and every kind, contingent or accrued, that have been or could have been alleged or asserted in any of the pleadings that have been filed in the Actions based on the facts, theories and/or violations alleged therein and any related notices sent to the LWDA, and all violations asserted or that could have been asserted in any notices sent to the LWDA referenced in any of those pleadings based on the facts and/or theories alleged in such notices, during the Class Release Period, including claims for or based on any type of unpaid or underpaid minimum, regular, overtime or other wages; failure to provide, authorize or permit compliant meal and rest periods or to pay premiums at the correct rate or at all for non-compliant meal and rest periods; failure to properly provide or pay sick leave;

failure to properly provide or pay vacation; failure to pay any wages timely or at all during and/or upon termination of employment; failure to provide accurate itemized wage statements; failure to reimburse any business expenses; failure to permit timely inspection of personnel, payroll or other employment records; derivative violations of the California Unfair Competition Law and/or relief available under PAGA; and failure to pay all wages in compliance with the Fair Labor Standards Act, or otherwise based in whole or in part on any direct or imputed violation of any federal, state, local or administrative constitution, charter, law, rule, regulation or ordinance.

11. What is the PAGA Release?

You may not opt-out, or request to be excluded, from the settlement of the PAGA claim, nor may you object to that settlement.

If you are a member of the Class, and without application of the exclusion described in Section 5 above, you will be giving up or “releasing” Defendant and the Released Parties from the following:

all claims for any civil penalties recoverable under the California Labor Code, including PAGA, as well as costs and attorneys’ fees related thereto, predicated on any violations alleged or asserted in the lawsuit and/or any related notices sent to the LWDA referenced therein.

12. How Do I Exclude Myself from the Settlement?

To exclude yourself from the class settlement (also referred to as “opt-out”), you must mail a letter to the Settlement Administrator that includes: (i) your full name, current mailing address, signature, and last four digits of your Social Security number; and (ii) a statement that you seek to be excluded from the *Evers v. LZB Retail, Inc., et al.* class action settlement and understand that by doing so, will not participate in the settlement, and will not receive any money from it. You must mail your exclusion letter postmarked no later than [RESPONSE DEADLINE], to the Settlement Administrator at [INSERT ADDRESS].

If you submit a timely and valid “opt-out” request, you will no longer be a member of the class and you will not receive any money from the class settlement, or be able to object to the settlement, but you will not be legally bound by anything that happens regarding the class action portion of this lawsuit. You will keep any rights to sue (or continue to sue) Defendant in the future for the same class claims made in this lawsuit, at your own expense.

You may not opt-out, or request to be excluded, from the settlement of the PAGA claim. Thus, even if you submit a timely and valid “opt-out” request, you will still receive a portion of the Aggrieved Employee Payment and will be deemed to have released the PAGA claims.

13. If I Don’t Exclude Myself, Can I Sue Defendant or Get Money from the Settlement?

If you do not exclude yourself from the class settlement, you cannot sue Defendant for any of the claims that this settlement releases and resolves. If you have a pending lawsuit against Defendant, speak to your lawyer in that case immediately. You may have to exclude yourself from this case to continue on with your own lawsuit. Remember, the exclusion deadline is [RESPONSE DEADLINE].

Again, if you exclude yourself from this settlement, you cannot get money from this settlement.

14. How Do I Tell the Court that I Don't Believe that the Settlement is Fair?

If you are a Class Member and you do not exclude yourself from the class settlement, you can object to the class settlement if you believe that the settlement is unfair or inadequate. You can give reasons why you think the Court should not approve the class settlement. If you object and follow the procedures set out in this section, your objection will be considered.

If you decide to object to the proposed settlement, you can do so in writing. All objections must be signed by you and must include: (i) your full name and current address, and contact information for any attorney representing you for the purposes of your objection; (ii) a written statement of the basis for your objection; and (iii) any copies of papers, briefs, or documents upon which the objection is based. You must mail your written objection postmarked no later than [REDACTED], 2024, to the Settlement Administrator at [REDACTED]. If you do not submit a written objection, you may still object by appearing at the Final Approval Hearing, which is set for [REDACTED], and stating your objection in person, provided that you did not exclude yourself from the Settlement. If you do not follow these procedures, you will be deemed not to have objected.

There is no right to object to the settlement of the PAGA claim.

15. What is the Difference Between Objecting and Excluding?

Objecting is simply telling the Court that you don't like something about the class settlement. You can object only if you stay in the class. Excluding yourself, on the other hand, is telling the Court that you don't want to be part of the class. If you exclude yourself, you have no basis to object because the case no longer affects you and you will not receive settlement benefits under the class settlement if it is approved by the Court. However, if you file an objection, you will still receive settlement benefits under the class settlement if it is approved by the Court.

16. Do I Have a Lawyer in this Case?

In connection with the Preliminary Approval of the Settlement, the Court decided that the law firm of Ferraro Vega Employment Lawyers, Inc., which represents the Named Plaintiff, are also qualified to represent you and all Class Members. You will not be charged for these lawyers. These law firms are referred to as "Class Counsel." If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How Will the Attorneys for the Class and the Class Representative Be Paid?

The attorneys for the Named Plaintiff and the class will be paid from the Settlement Fund. Class Counsel will ask the Court to approve up to \$358,333.33 in attorneys' fees and for actual litigation costs incurred up to \$40,000 but subject to proof, the actual amount of which will be determined by the Court at the final approval hearing (see section 18 below for details as to when this hearing will take place). Class Members (like you) do not have to pay the fees and costs of Class Counsel. **If you elect, however, to hire your own lawyer, you have to make your own arrangements to compensate your lawyer.**

If approved by the Court, the Named Plaintiff will receive an Enhancement Award in an amount up to \$10,000.00 for his work and efforts in prosecuting this case, providing a general release, and for undertaking the risks of costs

(in the event the outcome of this lawsuit was not favorable). The Enhancement Award will be paid from the Settlement Fund.

18. Notice of Hearing on Final Approval and Objections to Class Action Settlement.

The Court has preliminarily approved the settlement and will hold a final approval hearing to decide whether to give final approval to the settlement. This hearing will be held before the Honorable Joseph T. Ortiz on _____, 2024, at _____:00 a.m., in Department 75 of the Superior Court of California for the County of San Diego, located at 330 W Broadway, San Diego, CA 92101, to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the settlement. We do not know how long this decision will take. The final approval hearing may be continued without further notice. The Court may adjourn or continue the hearing from time to time, without further notification, as the Court may direct. You may also be able to attend the final approval via Zoom or other remote means.

Once final approval is granted by the Court, the Court will enter judgment against Defendant, and all Class Members who have not requested exclusion from the class will be deemed to have waived the Released Claims set forth above.

19. How Do I Get More Information?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by contacting Class Counsel.

20. What is the Contact Information for the Court and Class Counsel?

The contact information for Class Counsel are below:

FERRARO VEGA EMPLOYMENT
LAWYERS, INC.
Nicholas J. Ferraro
Lauren N. Vega
3160 Camino del Rio South, Suite 308
San Diego, CA 92108
Telephone: (619) 693-7727
lauren@ferrarovega.com
nick@ferrarovega.com

WHAT IF I HAVE QUESTIONS?

If you have any questions about the settlement, you may contact the Settlement Administrator:

Evers v. LZB Retail, Inc., et al.
c/o [insert]

Toll-Free Phone Number: [insert]

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE COURT CLERK FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS.

PLEASE DO NOT CONTACT DEFENDANT, ITS MANAGERS, OR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS.