

**JOINT CLASS ACTION AND PRIVATE ATTORNEYS GENERAL
ACT SETTLEMENT AGREEMENT**

Subject to final approval by the Court, this Class Action and Private Attorneys General Act (“PAGA”) Settlement Agreement (the “Agreement”) is made by and between Plaintiff Javier Reynoso Suarez (“Plaintiff”), on behalf of the Class (as defined below) and Defendants Leon’s Landscaping & Tree Service, Inc. and Serafin Leon (“Defendants”) (Plaintiff and Defendant are collectively referred to as the “Parties”).

1. DEFINITIONS

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendants captioned *Javier Reynoso Suarez v. Leon’s Landscaping & Tree Service, Inc., et al.* (Case No. CVRI2104491) originally filed on October 1, 2021, along with the First Amended Complaint filed on December 10, 2021, in the State of California, Riverside Superior Court.
- 1.2. “Administrator” means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Defendants in California as an hourly paid, non-exempt employee during the PAGA Period.
- 1.5. “Class” means all current and former hourly-paid or non-exempt employees of Defendants within the State of California at any time during the Class Period.
- 1.6. “Class Counsel” means Shoham J. Solouki and Grant Joseph Savoy of Solouki Savoy LLP.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security Number and Employee ID Number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English,

with a Spanish translation, in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

- 1.12. “Class Period” means the period from October 1, 2017 to June 30, 2023, or the date of preliminary approval, whichever is earlier.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Riverside.
- 1.16. “Defendants” means named Defendants Leon’s Landscaping & Tree Service, Inc. and Serafin Leon.
- 1.17. “Defense Counsel” means James C. Fessenden and Carola Murguia of Fisher & Phillips LLP.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means One Hundred Thousand Dollars and Zero Cents (\$100,000.00) which is the total amount Defendant Leon’s Landscaping & Tree Service, Inc., on behalf of Defendants, agrees to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and the Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means between October 6, 2020 to June 30, 2023, or the date of preliminary approval, whichever is sooner.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.33. “PAGA Notice” means Plaintiff’s October 6, 2021 letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties of \$10,000.00 to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees \$2,500.00 and the 75% to LWDA \$7,500.00 in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. “Plaintiff” means Javier Reynoso Suarez, the named plaintiff in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4 below.
- 1.41. “Released Parties” means Defendants together with their officers, directors, employees and agents.

- 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired.
- 1.44. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. “Workweek” means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

2. RECITALS

- 2.1. On October 1, 2021, Plaintiff commenced this Action by filing a lawsuit in the Superior Court, County of Riverside on behalf of himself and all others similarly situated individuals who are currently or were employed by Defendants with the applicable statute of limitations. On December 10, 2021, Plaintiff filed a First Amended Complaint adding a new cause of action under PAGA. Plaintiff sought to represent all non-exempt California employees in claims against Defendants for: (1) failure to provide meal periods, (2) failure to provide rest periods, (3) failure to pay overtime wages, (4) failure to pay minimum wage, (5) failure to timely pay wages, (6) failure to pay all wages due to discharged and quitting employees, (7) failure to maintain required records, (8) failure to provide accurate wage statements, (9) failure to indemnify employees for necessary expenditures incurred in discharge of duties, (10) violation of Business & Professions Code section 17200, et seq., and (11) violation of PAGA. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”). Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in the Operative Complaint, and deny any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.
- 2.3. On March 17, 2022, the Parties participated in an all-day mediation presided over by mediator Steve Pearl. The mediation and settlement negotiations included discussion and examination of the Parties’ respective positions regarding the legal and factual issues pertaining to the claims by Plaintiff.
- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, documents, information, and demographic data, including a voluminous sample of time and payroll records for Class Members over the Class Period. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.5. Plaintiff and Class Counsel concluded, after taking into account the sharply disputed factual and legal issues involved in this Litigation, the risks attendant to further prosecution, the formal and informal discovery conducted to date, and the substantial benefits received and to be received pursuant to the

compromise and settlement of the Litigation, that settlement on the terms hereinafter set forth was in the best interest of Plaintiff and the Settlement Class Members.

- 2.6. Plaintiff and Class Counsel are cognizant of problems of proof they face, many of which were discussed during the mediation session and settlement negotiations. As such, Class Counsel believes that the Settlement reached is fair to the Settlement Class Members and confers substantial benefits on the Settlement Class Members, offering all Settlement Class Members certain and meaningful recoveries in the near term. Based on its evaluation, Class Counsel determined that the Settlement set forth in this Agreement is in the best interest of Plaintiff and the Settlement Class Members.
- 2.7. Similarly, Defendants and Defense Counsel concluded that there were benefits associated with settling. Based on the sharply disputed factual and legal issues involved in litigation, the risks attendant to further defense, the expense and burden of protracted litigation, and Defendants' desire to put the controversy to rest, Defendants and Defense Counsel believe that settlement on the terms hereinafter set forth is in Defendants' best interest.
- 2.8. The Court has not granted class certification, as Parties engaged in mediation prior to Plaintiff filing a motion for class certification.
- 2.9. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.
- 2.10. This Settlement contemplates the (a) entry of a final order approving settlement of class action and (b) discharge of all Parties and their respective counsel from liability for any and all of the Released Class Claims and Released PAGA Claims. This Judgment and Final order shall have a res judicata effect and bars Plaintiff and each Settlement Class Member from bringing any action asserting Released Claims.

3. MONETARY TERMS

- 3.1. **Gross Settlement Amount.** Defendant Leon's Landscaping & Tree Service, Inc., on behalf of Defendants, promises to pay One Hundred Thousand Dollars and Zero Cents (\$100,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.
- 3.2. **Payments from the Gross Settlement Amount.** The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later

than twenty (20) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of one third of the Gross Settlement Amount, which is currently estimated to be \$33,333.33 and a Class Counsel Litigation Expenses Payment to not exceed \$10,000.00. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$8,500.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$8,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. *Tax Allocation of Individual Class Payments.* 15% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 85% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. *Effect of Non-Participating Class Members on Calculation of Individual Class Payments.* Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$10,000.00 to be paid from the Gross Settlement Amount, with 75% (\$7,500.00) allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA Payments. The Individual PAGA Payments

will be distributed to all Aggrieved Employees, including those who exclude themselves (opt-out) of the Class Settlement.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. **Class Workweeks and Aggrieved Employee Pay Periods.** Based on a review of its records to date, Defendants estimate that from October 1, 2017 to June 30, 2023, there are 376 Class Members who collectively worked a total of 28,307 Workweeks, and from October 1, 2017 to June 30, 2023 there are 189 Aggrieved Employees who worked a total of 5,855 PAGA Pay Periods.

4.2. **Class Data.** Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. **Funding of Gross Settlement Amount.** Defendant Leon's Landscaping & Tree Service, Inc., on behalf of Defendants, shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator in four (4) equal installments of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) each. The first installment shall be due within (90) days after the Effective Date. The second installment shall be due one-hundred and twenty (120) days after the Effective Date. The third installment shall be due one-hundred and fifty (150) days after the Effective Date. The fourth and final installment shall be due one-hundred and eighty (180) days after the Effective Date.

4.4. **Payments from the Gross Settlement Amount.** Within fourteen (14) days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

5. **RELEASE OF CLAIMS.** Effective on the date when Defendants fully fund the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. **Plaintiff's Release.** Plaintiff on behalf of himself and his dependents, heirs and assigns, beneficiaries, devisees, legatees, executors, administrators, agents, trustees, conservators, guardians, personal representatives, and successors-in-interest, whether individual, class, representative, legal, equitable, direct or indirect, or any other type or in any other capacity, shall and does hereby forever release, discharge and agree to hold harmless the Released Parties from any and all claims, demands, obligations, actions, causes of action, liabilities, and losses of every kind and nature whatsoever from any and all liability for claims known or unknown arising prior to the date of execution of this Agreement and arising from or related to work or relationship with Defendants. This release includes, without limiting the generality of the foregoing: any and all claims, demands, causes of action, obligations, charges, liabilities, damages, penalties, attorneys' fees, and costs relating to, arising out of, Plaintiff's work with Defendant, including any claims of violation of public policy; all claims based on tort and/or breach of contract, including interference with contract, whether written or oral, express or implied, and any covenant of good faith and fair dealing; all claims for unpaid wages or other benefits, including minimum wage and overtime and any associated premium pay and/or penalties; all claims for rest and/or meal period violations, including associated premium pay and/or penalties; all claims for emotional

distress; all claims for equitable relief; all claims for unfair or unlawful business acts and/or practices; any and all claims which were or could have been asserted in the Litigation; and all other losses, liabilities, claims, charges, demands, causes of action, known or unknown, suspected or unsuspected, arising directly or indirectly out of or in any way connection with the Litigation, Plaintiffs' relationship or work with Defendants or the Released Parties, and/or these transactions, or occurrences, including any alleged violation of any federal, state, or other governmental statute, regulation, or ordinance, including, without limitation: The Civil Rights Act of 1866, 1964, and 1991, as amended; 42 U.S.C. section 1981; The California Fair Employment and Housing Act; Section 503 of the Rehabilitation Act of 1973; The Fair Labor Standards Act (including the Equal Pay Act); The California and United States Constitutions; The California Labor Code; The California Business and Professions Code; The Employment Retirement Security Act, as amended; The California Family Rights Act; The Americans with Disabilities Act; The Family Medical Leave Act; The California Labor Code Private Attorneys General Act of 2004, California Labor Code sections 2698, et seq.; The California Government Act; The California Wage Orders; The California Occupational Safety and Health Act, or Federal equivalent; The National Labor Relations Act; The Worker Adjustment and Retraining Notification Act; The Age Discrimination in Work Act of 1967, as amended; The Older Workers' Benefits Protection Act; and The Families First Coronavirus Response Act.

- 5.2. **Plaintiff's Waiver of Rights Under California Civil Code Section 1542.** For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

- 5.3. **Release by Participating Class Members Who Are Not Aggrieved Employees:** All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and ascertained in the course of the Action, including, any and all claims involving any alleged failure to pay overtime wages, wages and minimum wages, wages due upon termination, costs of medical or physical examinations, reimbursement for necessary business expenses, failure to provide legally compliant meal breaks and rest periods, wage statement and paystub violations, waiting time penalties, including but not limited to violations of Labor Code sections 200, 201, 202, 203, 204, 222.5, 226(a), 226.7, 512(a), 516, 558(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 2810.5(a)(1)(A)-(C), and applicable IWC Wage Order(s). Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.
- 5.4. **Release by all Participating and Non-Participating Class Members Who Are Aggrieved Employees:** Plaintiff and the State of California are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for statutory penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiff's pre-filing letter to the LWDA. This in no way releases any Aggrieved Employees' claim(s) for wages or damages. This release has a preclusive

effect of a PAGA judgment on Aggrieved Employees as in *Arias v. Superior Court* (2009) 45 Cal.App.5th 969.).

6. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”).

- 6.1. **Plaintiff’s Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve, and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2. **Responsibilities of Counsel.** Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.
- 6.3. **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

7. **SETTLEMENT ADMINISTRATION**

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

- 7.2. **Employer Identification Number.** The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3. **Qualified Settlement Fund.** The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4. **Notice to Class Members.**
- 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2. Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3. Not later than three (3) business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the sixty (60) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than sixty (60) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity.

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.3 and 5.4 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating and Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. **Challenges to Calculation of Workweeks.** Each Class Member shall have sixty (60) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement.

7.7.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts

requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than sixty (60) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

7.7.3. Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

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

7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, checks mailed for Individual Class Payments and Individual PAGA Payments, and checks deposited or cashed ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5. Administrator's Declaration. Not later than fourteen (14) days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6. Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. WORKWEEK AND PAGA PAY PERIOD ESTIMATE

8.1. Based on its records, Defendants estimate that, as of June 30, 2023, there are 376 Class Members and 28,307 Total Workweeks during the Class period.

8.2. Based on its records, Defendants estimate that, as of June 30, 2023, there are 189 Aggrieved Employees who worked 5,855 Pay Periods during the PAGA Period.

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

10. **MOTION FOR FINAL APPROVAL**. Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

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

10.4. **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

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

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

12. ADDITIONAL PROVISIONS

12.1. **No Admission of Liability, Class Certification or Representative Manageability for Other Purposes.** This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses.

The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 12.2. **Confidentiality Prior to Preliminary Approval.** Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (i) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (ii) counsel in a related matter; (iii) to the extent necessary to report income to appropriate taxing authorities; (iv) in response to a court order or subpoena; or (v) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3. **No Solicitation.** The Parties separately agree that they and their respective counsel, employees, and/or agents will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4. **Integrated Agreement.** Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5. **Attorney Authorization.** Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6. **Cooperation.** The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7. **No Prior Assignments.** The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

- 12.8. **No Tax Advice.** Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9. **Modification of Agreement.** This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13. **Confidentiality.** To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14. **Use and Return of Class Data.** Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destruction, of Class Data.
- 12.15. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16. **Calendar Days.** Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.17. **Notice.** All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Shoham J. Solouki, Esq.

Grant Joseph Savoy, Esq.
Solouki Savoy LLP
316 W 2nd Street, Suite 1200
Los Angeles, California 90012
Telephone: (213) 814-4940

To Defendants:

James C. Fessenden, Esq.
Carola Murguia, Esq.
Fisher & Phillips LLP
4747 Executive Drive, Suite 1000
San Diego, California 92121
Telephone: (858) 597-9600

12.18. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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

PLAINTIFF:

Dated: 12/3/24

Javier Reynoso Suarez

Javier Reynoso Suarez

DEFENDANTS:

Dated: 1/2/2025

**DEFENDANT LEON'S LANDSCAPING &
TREE SERVICE, INC.**

Irma Leon

By: Irma Leon

Title: Office Manager

Dated:

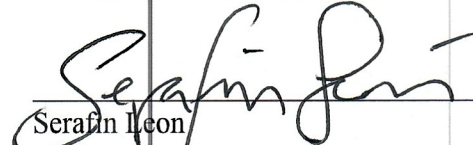
01/02/2025

APPROVED AS TO FORM:

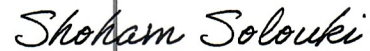
Dated: December 3, 2024

Dated: January 3, 2025

DEFENDANT SERAFIN LEON

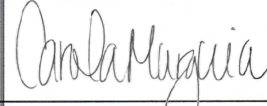

Serafin Leon

SOLOUKI SAVOY LLP



Shoham J. Solouki, Esq.
Attorney for Plaintiff Javier Reynoso Suarez, the
Settlement Class, and Aggrieved Employees

FISHER & PHILLIPS LLP



James C. Fessenden, Esq.
Carola Murguia, Esq.
Attorneys for Defendants Leon's Landscaping
& Tree Service, Inc. and Serafin Leon

EXHIBIT “A”

NOTICE OF CLASS ACTION SETTLEMENT

Javier Reynoso Suarez v. Leon's Landscaping & Tree Service, Inc., et al.
Case No. CVRI2104491

A court authorize this notice. This is not a solicitation.

This is not a lawsuit against you and you are not being sued.

However, your legal rights are affected by whether you act or do not act, so read this notice carefully.

IF YOU ARE OR WERE EMPLOYED BY LEON'S LANDSCAPING & TREE SERVICE, INC. ("LEON'S") IN CALIFORNIA AS A NON-EXEMPT EMPLOYEE AT ANY TIME BETWEEN OCTOBER 1, 2017 THROUGH JUNE 30, 2023, THIS PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the "Settlement") has been reached in a class action and representative Private Attorneys General Act of 2004 ("PAGA") lawsuit entitled *Javier Reynoso Suarez v. Leon's Landscaping & Tree Service, Inc., et al.*, Riverside Superior Court Case No. CVRI2104491 (the "Action"). The purpose of this Notice of Proposed Class Action Settlement ("Notice") is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

A hearing concerning final approval of the proposed Settlement will be held before the Hon. Harold W. Hopp on <<**FA Date and Time**>> in Department 1 of the Riverside Superior Court, Historic Court House, 4050 Main Street, Riverside, CA 92501, to determine whether the Settlement is fair, adequate and reasonable. The court has only determined that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate and reasonable. A final determination on such issues will be made and the final approval hearing. As a Class Member, you are eligible to receive an individual Settlement Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING – GET MONEY	If you do nothing, you will be considered part of the Class and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendants for the Released Claims asserted in the Action as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS DEADLINE TO EXCLUDE YOURSELF: << RESPONSE DATE>>	You have the option to pursue separate legal action against Defendants about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by submitting a written Request to be Excluded. As a result, you will not receive any benefits under the Settlement. If this Settlement is approved by the Court and you are an Aggrieved Employee, you will receive your Individual PAGA Payment and release the Released PAGA Claims, even if you exclude yourself from the Settlement. You may use the included Request for Exclusion Form.
OBJECT TO THE SETTLEMENT	To object to the Settlement, you may mail a written explanation of

DEADLINE TO SUBMIT WRITTEN OBJECTIONS: << RESPONSE DATE >>	why you don't like the Settlement to the Settlement Administrator, appear at the final approval hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a Request to be Excluded if you wish to object. <i>Written</i> objections must be submitted by <<RESPONSE DATE>>. You may use the included Notice of Objection Form.
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Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class:

All non-exempt employees who worked for Leon's in California for at least one day during the Class Period (the "Class Period" is October 1, 2017 through June 30, 2023) ("Settlement Class Members").

"Aggrieved Employee" are those Settlement Class Members who worked at least one day for Leon's during the PAGA Period (the "PAGA Period" is October 6, 2020 through June 30, 2023).

According to Leon's records, you are a Settlement Class Member and/or a Aggrieved Employee.

What is this case about?

In the Action, Plaintiff Javier Reynoso Suarez ("Plaintiff") alleges on behalf of himself and the Settlement Class Members in claims against Defendants for: (1) failure to provide meal periods, (2) failure to provide rest periods, (3) failure to pay overtime wages, (4) failure to pay minimum wage, (5) failure to timely pay wages, (6) failure to pay all wages due to discharged and quitting employees, (7) failure to maintain required records, (8) failure to provide accurate wage statements, (9) failure to indemnify employees for necessary expenditures incurred in discharge of duties, (10) violation of Business & Professions Code section 17200, et seq., and (11) violation of provisions of the Labor Code giving rise to civil penalty liability under the Labor Code Private Attorneys General Act of 2004, Labor Code section 2699, et seq.. Plaintiffs seek unpaid wages, actual damages, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys' fees, and costs.

Defendants deny all liability and are confident that they have strong legal and factual defenses to these claims, but recognize the risks, distractions, and costs associated with litigation. Defendants contend that their conduct is and has been lawful at all times relevant and that Plaintiff's claims do not have merit and do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendants (the "Parties"), through their attorneys, and is not an admission of liability on the part of Defendants. Both sides agree that this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Settlement Class Members.

The Court has not ruled on the merits of Plaintiff's claims or Defendants' defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Shoham J. Solouki, Esq.
Grant Joseph Savoy, Esq.
Solouki Savoy LLP
316 W 2nd Street, Suite 1200
Los Angeles, California 90012

Defendants' Counsel

James C. Fessenden, Esq.
Carola Murguia, Esq.
Fisher & Phillips LLP
4747 Executive Drive, Suite 1000
San Diego, California 92121

Telephone: (213) 814-4940

Telephone: (858) 597-9600

What are the Settlement terms?

Subject to final Court approval, Defendant Leon's Landscaping & Tree Service, Inc. will pay \$100,000 (the "Gross Settlement Amount") for: (a) individual Settlement Payments to Settlement Class Members; (b) the Court-approved Class Representative Service Payments to Plaintiff (\$7,5000 to be requested for Plaintiff); (c) the Court-approved attorneys' fees and costs to Class Counsel (\$33,333.33 in fees and up to \$10,000 in costs to be requested); (d) payment to the Labor and Workforce Development Agency ("LWDA") for alleged PAGA penalties (\$7,500 of a total of \$10,000 allocated to PAGA penalties); and (e) payment to the Settlement Administrator for settlement administration services (up to an estimated maximum of \$8,500).

Individual Settlement Payments. After deduction from the Gross Settlement Amount for attorneys' fees and costs, the Class Representative Service Payments to Plaintiffs, the payment to the LWDA, and settlement administration costs, there will be a Net Settlement Amount. From this Net Settlement Amount, Defendant Leon's Landscaping & Tree Service, Inc. will make an individual Settlement Payment to each Class Member who does not request to be excluded from the Settlement ("Participating Settlement Class Members") and to each Aggrieved Employee, regardless of whether they request exclusion from the Settlement. From the Net Settlement Amount, \$2,500 will be set aside for payments to Aggrieved Employees. The remainder of the Net Settlement Amount will be distributed to Participating Settlement Class Members. If you will receive payments both as a Participating Settlement Class Members and as an Aggrieved Employee, the Settlement Administrator will combine the payments, less applicable taxes and required withholdings. You will receive two checks based on the dates the Settlement Administrator receives the two payments from Defendant Leon's Landscaping & Tree Service, Inc..

The Net Settlement Amount shall be divided among all Settlement Class Members and Aggrieved Employee on a pro rata basis based upon the total number of workweeks worked by each respective Settlement Class Member as a non-exempt employee in the State of California during the Class Period and PAGA Period where applicable. Your estimated individual Settlement Payment is listed below.

Your estimated minimum settlement payment is <<Estimated Payment>> and your covered Work Weeks worked during the relevant period between October 1, 2017 to June 30, 2023 are <<Work Weeks>>. To the extent you dispute the number of Work Weeks, you must make your dispute ("Work Week Dispute") in writing and send it to the Settlement Administrator via fax or mail. Your Work Week Dispute must be postmarked or faxed no later than <<+30 days from date of mailing>> (the "Response Deadline") to:

Phoenix Settlement Administrators, [Address]

Your Work Week Dispute must be in writing and contain: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of Work Weeks you contend is correct; and (c) any evidence supporting your contention. Defendants' records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all Work Week Disputes, and its decisions will be final and non-appealable. **REMINDER:** If you believe your estimated individual Settlement Amount is incorrect because your Work Weeks (the number of total weeks you worked within the Class Period only) are wrong, the deadline to dispute the workweeks reported for you is <<RESPONSE DATE>>.

For tax reporting purposes, the payments to Settlement Class Members will be allocated 15% as wages and 85% as penalties and interest, excluding the \$2,500 in PAGA Settlement Payments, which will be allocated as 100% penalties. The wage portion of the individual Settlement Payments shall be subject to

the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the individual Settlement Payments. The portion of the Settlement Payments allocated to penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC. Any taxes owed on that other miscellaneous income will be the responsibility of Settlement Class Members receiving those payments. The employer's share of any payroll taxes will be separately paid by Defendant.

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

NOTE: If you are a Aggrieved Employee, you will receive your share of the \$2,500 allocated to Aggrieved Employees even if you request exclusion from the Settlement Class.

Class Counsel Attorneys' Fees and Costs, Class Representative Service Award, Settlement Administration Costs and Payment to the LWDA. Class Counsel will ask the Court to award attorneys' fees up to \$33,333.33 (33%) of the Gross Settlement Amount and reimbursement of reasonable costs incurred in the Action not to exceed \$10,000. In addition, Class Counsel will ask the Court to authorize Class Representative Service Payments of \$7,500 for Plaintiff for his efforts in bringing the case on behalf of the Class. The Parties estimate the cost of administering the Settlement will not exceed \$8,500.00. A payment in the amount of \$7,500.00 will also be made to the LWDA for PAGA penalties, which represents 75% of the \$10,000 set aside for payment under PAGA. The remaining \$2,500 set aside for the PAGA claim settlement will be included in the Net Settlement Amount and distributed to the Aggrieved Employees, including those who opt-out of the Class Settlement.

What claims are being released by the proposed Settlement?

Upon the final approval by the Court of this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representatives, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim, will release claims as follows:

(a) **Identity of Released Parties.** The released parties are Defendants, together with their officers, directors, employees and agents (collectively "Releasees").

(b) **Date Release Becomes Active.** The Released Claims and Released PAGA Claims will be released upon the later of (1) the Settlement's Effective Date, or (2) the satisfaction of Defendant Leon's Landscaping & Tree Service, Inc.'s obligation to provide to the Settlement Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Class Members will not release the Released Claims or Released PAGA Claims until both the Effective Date of the Settlement has occurred, **and** Defendant Leon's Landscaping & Tree Service, Inc. has paid all amounts owing under the Settlement.

(c) **Claims Released by Settlement Class Members.** Each and every Settlement Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following claims for the entire Class Period:

1) any and all claims stated in the Action, or that could have been stated based on the facts alleged in the Action, including but not limited to state wage and hour claims (including all claims under the California Labor Code) for unpaid wages, minimum wage, overtime, off-the-clock work, underpayment due to rounding, ATM withdrawal fees, meal periods, rest periods, one day's rest in seven, unreimbursed business expenses, wage statement violations, interest, penalties, and attorneys' fees,

waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 200-204, 210, 216, 218.5, 218.6, 223, 225.5, 226, 226.3, 226.7, 510, 512, 512.5, 551, 552, 558, 1194, 1194.2, 1197, 1198, 2753 and 2802, derivative claims under California Business & Professions Code §§ 17200 et seq., and all claims under the governing Wage Order (“Released Claims”);

2) as to any Settlement Class Member who cashes their Settlement Payment, the signing and negotiation of that check shall serve as the Settlement Class Member’s consent to join the action for purposes of releasing claims arising under the Fair Labor Standards Act that are related to the claims stated in the Action, implicitly or explicitly.

d) **Claims Released by the Plaintiff, and Aggrieved Employees.** Plaintiff and the State of California are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for statutory penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiff’s pre-filing letter to the LWDA. This in no way releases any Aggrieved Employees’ claim(s) for wages or damages. This release has a preclusive effect of a PAGA judgment on Aggrieved Employees as in *Arias v. Superior Court* (2009) 45 Cal.App.5th 969 Aggrieved Employee

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an individual Settlement Payment; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive an individual Settlement Payment under the Settlement, **you do not need to take any action.** By remaining in the Class and receiving settlement monies, you consent to the release of the Released Claims as described above.

Any amount paid to Settlement Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendants, unless otherwise required by law.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you have several options that you may use to object to it or express any concerns. To object, you may appear in person at the Final Approval Hearing, have an attorney object for you, or submit a written brief or statement of objection (“written objection”) to the Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. If you submit a written objection, it should contain sufficient information to confirm the your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; and (4) be postmarked on or before <<**Response Deadline**>> and returned to the Settlement Administrator at the address listed above to ensure that it is received in time to be transmitted to and considered by the Court. You can also hire an attorney at your own expense to represent you in your objection. The Parties shall file responses to any written objections before the final approval hearing. Regardless of whether you object in writing, the Court may, in its sole discretion, permit you to state any objections you may have at the Settlement Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the**

release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.

Regardless of the form, an objection, alone will not satisfy the requirement that a Settlement Class Member must formally intervene and become a party of record in the action to appeal a Judgment entered following an Order finally approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018).

OPTION B. Request to Be Excluded from the Settlement and Receive No Money from the Settlement. If you do not want to be part of the Settlement, you must submit a written request to be excluded from the Settlement to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. In order to be valid, your written request to be excluded from the Settlement must be signed and include your name, address, and telephone number (to confirm your identity and make certain that only persons requesting exclusion are removed from the settlement), along with a statement like the following:

“I WISH TO BE EXCLUDED FROM THE CLASS IN THE JAVIER REYNOSO SUAREZ V. LEON’S LANDSCAPING & TREE SERVICE, INC., ET AL., CLASS ACTION LAWSUIT, RIVERSIDE COUNTY SUPERIOR COURT CASE NO. CVRI2104491. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OTHER THAN MY SHARE OF THE PAGA PAYMENT.”

Your written request to be excluded from the Settlement must then be signed and postmarked on or before <<**Response Deadline**>>. If you do not submit a written request to be excluded from the Settlement on time (as evidenced by the postmark), your written request to be excluded from the Settlement will be rejected, you will be deemed a participating Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a written request to be excluded from the Settlement by the deadline to request exclusion, you will have no further role in the Action. **You will not be entitled to any benefit, including money**, as a result of the Action and Settlement. You will not be able to complain to the Court about any aspect of the Settlement.

NOTE: Aggrieved Employees cannot exclude themselves from the release of the PAGA claims.

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

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel’s request for attorneys’ fees and costs, the Class Representative Service Payment to Plaintiff, the settlement administration costs, and the payment to the LWDA for PAGA penalties on <<**FA Date and Time**>> in Department 1 of the Riverside Superior Court, 4050 Main Street, Riverside, CA 92501. Because of healthcare guidance and Orders of the Riverside Superior Court related to COVID-19, the hearing may be a telephonic hearing only. If you wish to attend the Final Approval Hearing telephonically, go to <https://www.riverside.courts.ca.gov/PublicNotices/remote-appearances.php> for instructions on how to do so. The Final Approval Hearing may be continued without further notice to Settlement Class Members. You are not required to attend the Final Approval Hearing to receive an individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be mailed to you.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class Action and PAGA Settlement attached as Exhibit 'A' to the Declaration of Shoham Solouki in Support of Plaintiff's Motion for Preliminary Approval, filed on DATE. The Joint Stipulation of Class Action Settlement and all other records relating to the lawsuit are available for inspection and/or copying at the Civil Records Office of the Riverside Superior Court, located at 4050 Main Street, Riverside, CA 92501. Because of the Riverside Superior Court's COVID-19 pandemic procedures, in order to view documents filed in the lawsuit, Settlement Class Members may be required to make an appointment with the Court to view documents. You may also request a copy of the Settlement Agreement from Class Counsel, at the address listed above. You can also obtain further information regarding this action and this settlement at:

<https://www.riverside.courts.ca.gov/OnlineServices/SearchCourtRecords/public-access.php>.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.