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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

BRIAN THOMAS RUFF, individually and
on behalf of all others similarly situated and
all aggrieved employees,

Plaintiff,

v.

WILSON LOGISTICS, INC.; and DOES 1
through 10, inclusive,

Defendants.

Case No. 22CV008614

Assigned for all purposes to:
The Hon. Tara Desautels

Dept. 16

**JOINT STIPULATION OF SETTLEMENT
AND RELEASE OF CLAIMS**

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1 **JOINT STIPULATION OF SETTLEMENT AND RELEASE OF CLAIMS**

2 This Joint Stipulation of Settlement and Release of Claims (Stipulation) is made and entered
3 into by Plaintiff, Brian Thomas Ruff, on behalf of himself and all others similarly situated and all
4 aggrieved employees, as defined below, on the one hand, and Defendant, Wilson Logistics, Inc., on the
5 other hand. This Stipulation is subject to the approval of the Court under California Code of Civil
6 Procedure §382 (Section 382) and the California Private Attorneys General Act, California Labor Code
7 §2699(1)(2), and is made for the purpose of perfecting settlement of this Action, as defined below, on
8 a classwide and aggrieved-employee wide basis subject to the following terms and conditions. As
9 detailed below, in the event the Court does not enter an order granting final approval of the Stipulation
10 or the conditions precedent are not met for any reason, Plaintiff shall dismiss his FLSA Claims, as
11 defined below, and his Class Claims, as defined below, in this Action, and this Stipulation shall be null
12 and void and shall have no force or effect whatsoever.

13 **I. DEFINITIONS**

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

17 **1. Action.** “Action” shall mean the civil action entitled *Brian Thomas Ruff, individually*
18 *and on behalf of all others similarly situated and on behalf of all aggrieved employees v. Wilson*
19 *Logistics, Inc.*, Case No. 22CV008614, pending in the California Superior Court, County of Alameda.

20 **2. Administrative Expenses.** “Administrative Expenses” shall mean all costs incurred in
21 connection with the Settlement Administrator’s work.

22 **3. California Class.** “California Class” shall mean: Class Members who do not opt out of
23 the Settlement.

24 **4. California Class Pro-Rata Amount.** “California Class Pro-Rata Amount” shall mean
25 the pro-rata portion of the Remaining Net Settlement Amount a California Class Member shall receive
26 based on their Weeks Worked as determined by the dates of contract and termination of their ICOA
27 with Defendant, compared with the total number of Weeks Worked by the California Class.

28 **5. Claims.** “Claims” shall mean the claims for relief asserted in the Complaint, including,

but not limited to: (1) failure to pay the statutory minimum wage for all hours worked, Cal. Labor Code §§1194, 1197, 1194.2; (2) failure to pay overtime wages, Cal. Labor Code §§510, 1194, 1198; (3) failure to provide meal periods, Cal. Labor Code §226.7, IWC Wage Order No. 9-2001(12), Cal. Code Regs. Title 8 §11090; (4) failure to provide rest breaks, Cal. Labor Code §226.7, IWC Wage Order No. 9-2001(11); (5) failure to pay wages upon separation of employment within the required time, Cal. Labor Code §§201, 202, 203, 210; (6) failure to furnish accurate itemized wage statements, Cal. Labor Code §§226, 226.2; (7) failure to reimburse all business expenses, Cal. Labor Code §2800, 2802; (8) unlawful deductions of wages, Cal. Labor Code §221; (9) violation of Unfair Competition Law (UCL), Bus. & Prof. Code §§17200, *et seq.*; (10) violations of PAGA, Cal. Labor Code §§2698, *et seq.*, and (11) failure to pay wages and the minimum wage under the FLSA, 29 U.S.C. §§201, *et seq.*

6. Class Action Complaint. “Class Action Complaint” shall mean the Class Action Complaint originally filed by Plaintiff on December 21, 2021, in the Superior Court of the State of California, County of Alameda, Case No. 21CV004428, and removed by Defendant on February 17, 2022, to the U.S. District Court for the Northern District of California, Case No. 3:22-cv-00988-WHO.

7. Class and Collective Representative. “Class and Collective Representative” shall mean Plaintiff in his capacity as representative of the Classes.

8. Class Claims. “Class Claims” shall mean the claims pled by Plaintiff against Defendant in the Class Action Complaint.

9. Class Counsel. “Class Counsel” shall mean Lebe Law, APLC, 2650 777 S. Alameda Street, Second Floor, Los Angeles, California 90021.

10. Class List. “Class List” shall mean the list of names, Social Security numbers, last-known addresses, phone numbers, and email addresses, and contract lease and termination dates of Class Members.

11. Class Members. “Class Members” shall mean all individuals who resided in California and signed an Independent Contractor Operating Agreement (ICOA) with Defendant and performed transportation services for Defendant under the ICOA during the Class Period.

12. Class Notice. “Class Notice” shall mean the Notice of Class, Collective and

Representative Action Settlement and Final Approval Hearing, as set forth in the form of **Exhibit 1** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class Members.

13. Class Period. “Class Period” shall mean June 26, 2017, through the date the Court enters preliminary approval of the Settlement or 60 days from February 27, 2023, whichever occurs first.

14. Collective Period. “Collective Period” shall mean December 21, 2018, through the date the Court enters preliminary approval of the Settlement or 60 days from February 27, 2023, whichever occurs first.

15. Complaint. “Complaint” shall mean the First Amended Class, Collective, and Representative Complaint to be filed in this Action.

16. Court. “Court” shall mean the Superior Court for the State of California for the County of Alameda.

17. Days. “Days” shall mean calendar days.

18. Defense Counsel. “Defense Counsel” shall mean Christopher J. Eckhart, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 West Market Street, Suite 1400, Indianapolis, Indiana 46204.

19. Effective Date. “Effective Date” shall be the date when all of the following events have occurred: (a) this Stipulation has been executed by all Parties and by Class Counsel and Defense Counsel; (b) the Court has given preliminary approval to the Settlement; (c) Notice has been given to the Class Members providing them with an opportunity to opt-out of the Settlement; (d) if more than eight (8) Class Members opt-out, and Defendant has elected not to exercise its rights to void the settlement; (e) if there is a 10% or more increase in the number of workweeks between the mediation date and the Class Period end date and Plaintiff has elected not to exercise his right to void the settlement; (f) the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment approving this Stipulation; (g) Plaintiff and Defendant have stipulated to the dismissal of the Federal Case with prejudice; and (h) in the event there are written objections filed prior to the Final Approval and Fairness Hearing that are not later withdrawn, the later of the following events: (i) when the period for filing any appeal, writ, or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; or (ii) any appeal, writ, or

1 other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with
2 no right to pursue further remedies or relief; or (iii) any appeal, writ, or other appellate proceeding has
3 upheld the Court's final order with no right to pursue further remedies or relief. In this regard, it is the
4 intention of the Parties that the Settlement shall not become effective until the Court's order approving
5 the Settlement is completely final and there is no further recourse by an appellant or objector who seeks
6 to contest the Settlement. If no objections are filed, the Effective Date shall be after steps (a) through (g)
7 have been completed.

8 **20. Enhancement Award.** "Enhancement Award" shall mean an additional monetary
9 payment provided to Plaintiff, not to exceed \$15,000.00, for the general release he is providing
10 Defendant, and his efforts on behalf of the Classes in this Action, as approved by the Court.

11 **21. Estimated Individual Settlement Amount.** "Estimated Individual Settlement
12 Amount" shall mean the Individual Settlement Amount originally calculated by the Settlement
13 Administrator after preliminary approval of the Settlement and presuming all Class Members will
14 participate in the Settlement as Settlement Class Members, and will appear on the Class Notice sent to
15 Class Members.

16 **22. Federal Case.** "Federal Case" shall mean the Class Action Complaint, which is pending
17 in the U.S. District Court for the Northern District of California, Case No. 3:22-cv-00988-WHO.

18 **23. FLSA.** "FLSA" shall mean the Fair Labor Standards Act, 29 U.S.C. §§201, *et seq.*

19 **24. FLSA Claims.** "FLSA Claims" shall mean all claims asserted by Plaintiff against
20 Defendant under the FLSA in the Complaint.

21 **25. FLSA Collective.** "FLSA Collective" shall mean: All Class Members who opt-in to the
22 FLSA portion of the Settlement.

23 **26. FLSA Collective Settlement Amount.** "FLSA Collective Settlement Amount" shall
24 mean \$500, the amount the Parties have determined each Settlement Class Member who opts-in to the
25 FLSA Collective shall receive in exchange for the release of their claim(s) under the FLSA according
26 to this Stipulation.

27 **27. Final Approval and Fairness Hearing.** "Final Approval and Fairness Hearing" shall
28 mean the final hearing held to ascertain the fairness, reasonableness, and adequacy of the Settlement.

1 **28. Gross Settlement Amount.** “Gross Settlement Amount” shall mean **\$1,250,000.00**,
2 which will be all-inclusive, including Individual Settlement Amounts to all Settlement Class Members
3 that Defendant will pay in connection with this Settlement, in exchange for the release of the Settlement
4 Class Members’ Claims. The Gross Settlement Amount shall be used to satisfy all of Defendant’s
5 liabilities arising from the Settlement, including interest, Class Counsel’s attorney’s fees and costs,
6 Administrative Expenses, Plaintiff’s Enhancement Award, civil penalties recoverable under PAGA,
7 any filing fees incurred by Defendant in this Action to secure approval of the Settlement, and the Net
8 Settlement Amount. Defendant will have no obligation to pay any amount in connection with this
9 Settlement apart from the Gross Settlement Amount.

10 **29. Hearing on Preliminary Approval.** “Hearing on Preliminary Approval” shall mean
11 the hearing held on the motion for preliminary approval of the Settlement.

12 **30. IRS.** “IRS” shall mean the U.S. Internal Revenue Service.

13 **31. Individual Settlement Amount.** “Individual Settlement Amount” shall mean the
14 settlement payments the Settlement Administrator calculates and sends to Settlement Class Members
15 after the Effective Date.

16 **32. LWDA.** “LWDA” shall mean the California Labor and Workforce Development
17 Agency.

18 **33. Net Settlement Amount.** “Net Settlement Amount” shall mean the Gross Settlement
19 Amount less (a) Class Counsel’s claim for attorneys’ fees, not to exceed 33 1/3% of the Gross
20 Settlement Amount or \$416,666.67, as approved by the Court; (b) Class Counsel’s reasonable claim
21 for costs and expenses, not to exceed \$22,500, as approved by the Court; (c) an Enhancement Award
22 to Plaintiff, not to exceed \$15,000.00, as approved by the Court; (d) Administrative Expenses, not to
23 exceed \$15,000, as approved by the Court; (e) the PAGA Payment to the LWDA of \$75,000.00; and
24 shall be the maximum amount to be distributed to Settlement Class Members.

25 **34. Notice of Estimated Individual Settlement Amount.** “Notice of Estimated Individual
26 Settlement Amount” shall mean the notice sent to Class Members of their Estimated Individual
27 Settlement Amount.

28 **35. Opt-In Consent Form.** “Opt-In Consent Form” shall mean the form mailed as part of

the Class Notice that a Class Member must mail by the Opt-Out, Opt-In, and Objection Deadline, to receive an FLSA Collective Settlement Amount, which is attached hereto as **Exhibit 2**.

36. Opt-Out(s). “Opt-Out(s)” shall mean any and all Class Members who timely and validly request exclusion from the Settlement in accordance with the terms of the Notice.

37. Opt-Out, Opt-In, and Objection Deadline. “Opt-Out, Opt-In, and Objection Deadline” shall mean the date by which Class Members must submit their Opt-Out Request, and/or their Opt-In Consent Form, or if a Settlement Class Member objects to the fairness of the Settlement, the date by which such Settlement Class Member must file their written objection with the Court, all of which shall be 60 days after the Settlement Administrator mails the Notice.

38. Opt-Out Request. “Opt-Out Request” shall mean a timely and valid request for exclusion from the Settlement in accordance with the terms of the Class Notice.

39. PAGA. “PAGA” shall mean the California Private Attorneys General Act, Cal. Labor Code §§2698, *et seq.*

40. PAGA Payment. “PAGA Payment” shall mean the \$100,000.00 allocated for the settlement and full release of any and all claims for civil penalties that could have been made in this Action by the Settlement Class Members under PAGA.

41. PAGA Payment to the LWDA. “PAGA Payment to the LWDA” shall mean the \$75,000.00 from the PAGA Payment that will be paid to the LWDA.

42. Parties. “Parties” shall mean Plaintiff and Defendant.

43. Plaintiff. “Plaintiff” shall mean Plaintiff Brian Thomas Ruff.

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

45. Released Claims. “Released Claims” shall mean all wage and hour claims under federal and state law that were brought or could have been brought in this Action based on the facts alleged in the Complaint, and any amendments thereto, including claims under the California Labor Code for unpaid minimum wages, unlawful deductions from wages, unreimbursed business expenses, failure to provide meal and rest breaks, unpaid rest breaks, derivative claims under California Labor Code §§ 203, 204 and 226 or any similar section, failure to keep records, and penalties under PAGA, as well

1 as claims for unpaid minimum wages under the FLSA for those Settlement Class Members who timely
2 submit an Opt-In Consent Form. In addition, in exchange for his Enhancement Award, Plaintiff shall
3 execute a general release of all claims Plaintiff has or might have by virtue of any fact(s), act(s) or
4 event(s) occurring prior to the date the Court enters judgment. Thus, Plaintiff expressly waives and
5 relinquishes the provisions, rights, and benefits of California Civil Code §1542 (Section 1542).

6 **46. Released Parties.** “Released Parties” shall mean Defendant, and all its present and
7 former officers, directors, shareholder, agents, employees, representatives, attorneys, parent
8 companies, subsidiaries, divisions, affiliates, related companies, successors, and assigns.

9 **47. Remaining Net Settlement Amount.** “Remaining Net Settlement Amount” shall mean
10 the Net Settlement Amount minus the total FLSA Collective Settlement Amounts to all FLSA
11 Collective Members.

12 **48. Representative Action Complaint.** “Representative Action Complaint” shall mean the
13 Representative Action Complaint filed by Plaintiff on March 18, 2022, in this Court and assigned Case
14 No. 22CV008614.

15 **49. Settlement.** “Settlement” shall mean the class, collective, and representative action
16 settlement embodied in this Stipulation, which is subject to Court approval.

17 **50. Settlement Administrator.** “Settlement Administrator” shall mean Phoenix Class
18 Action Administration Solutions, which the Parties have agreed will be responsible for administration
19 of the Settlement and related matters, or another neutral administrator mutually agreed to by the Parties.

20 **51. Settlement Class Member.** “Settlement Class Member” shall mean any and all
21 members of the Settlement Classes.

22 **52. Settlement Classes.** “Settlement Classes” shall mean the California Class and the FLSA
23 Collective.

24 **53. Settlement Amount.** “Settlement Amount” shall mean an amount paid to a Settlement
25 Class Member from the Net Settlement Amount.

26 **54. Stipulation.** “Stipulation” shall mean this Joint Stipulation of Settlement and Release
27 of Class Action, including any attached exhibits.

28 **55. Weeks Worked.** “Weeks Worked” shall mean the weeks between a Class Member’s

1 contract date and contract termination date. Partial weeks will count as a week worked.

2 **II. FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

3 **A. Plaintiff's Claims.**

4 Plaintiff filed his Class Action Complaint in the California Superior Court, County of Alameda,
5 on December 21, 2021 (Class Case). The Class Action Complaint alleged the following claims:
6 (1) failure to pay minimum wages, Cal. Labor Code §§1182.12, 1194, 1194.2, 1197, 1199, and IWC
7 Wage Order No. 9-2001; (2) failure to pay overtime wages, Cal. Labor Code §§510, 1194, 1198, and
8 IWC Wage Order No. 9-2001; (3) failure to provide meal periods, Cal. Labor Code §§226.7, 512, and
9 IWC Wage Order No. 9-2001; (4) failure to provide rest breaks, Cal. Labor Code §226.7, and IWC
10 Wage Order No. 9-2001; (5) failure to pay wages upon separation of employment and within the
11 required time, Cal. Labor Code §§201, 202, 203, and IWC Wage Order No. 9-2001; (6) failure to
12 furnish accurate and itemized wage statements, Cal. Labor Code §226, and IWC Wage Order No. 9-
13 2001; (7) failure to reimburse business expenses, Cal. Labor Code §2802; (8) unlawful deduction of
14 wages, Cal. Labor Code §221; and (9) violation of the UCL, Cal. Bus. & Profs. Code §§17200, *et seq.*
15 On February 17, 2022, Defendant removed the Class Case to the U.S. District Court for the Northern
16 District of California. After denial of Plaintiff's Motion to Remand and Defendant's Motion to
17 Transfer, and a case management conference with the Court, the Parties requested that the District
18 Court stay the case pending mediation.

19 On March 18, 2022, Plaintiff filed his Representative Action Complaint in this Court, alleging
20 that Defendant should pay penalties under PAGA for its violation of California's wage and hour laws.
21 Specifically, the Representative Action Complaint alleged that Defendant violated California law by:
22 (a) misclassifying Plaintiff and other workers as independent contractors; (b) failing to pay minimum
23 wages for all hours worked; (c) failing to pay overtime wages for all hours worked; (d) failing to
24 provide lawful meal periods or compensation in lieu thereof; (e) failing to authorize or permit lawful
25 rest breaks or compensation in lieu thereof; (f) failing to provide accurate itemized wage statements;
26 (g) failing to reimburse all business expenses; (h) failing to timely pay all wages during employment;
27 (i) failing to pay all wages due upon separation of employment; (j) failing to provide sick pay;
28 (k) unlawfully deducting wages; and (l) failing to provide worker's compensation insurance. Upon the

Parties' Stipulation, this Court has twice continued the initial case management conference to allow the Parties time to focus on settlement of Plaintiff's claims.

In accordance with Section 2 of the Parties' Memorandum of Understanding (MOU), Plaintiff will file his Complaint, in which he will plead the claims pled in the Class Action Complaint, the Representative Action Complaint, and an additional claim under the FLSA. Plaintiff seeks wages, penalties, liquidated damages, interest, attorney's fees, and litigation costs allegedly due and owing by virtue of any of the facts asserted in the Complaint and under the statutes cited in the Complaint for the Class Period.

B. Defendant's Responsive Pleadings.

On February 24, 2022, in the District Court, Defendant filed its Answer, Affirmative Defenses, and Jury Demand to Plaintiff's Class Action Complaint, and denied and continues to deny any liability to Plaintiff and the Class Members, and raised various defenses to Plaintiff's Class Action claims. On April 4, 2022, Defendant filed its Answer and Affirmative Defenses to Plaintiff's Representative Action Complaint and denied and continues to deny any liability to Plaintiff and the allegedly aggrieved employees and raised various defenses to Plaintiff's PAGA claims.

C. Discovery, Investigation, and Research.

Class Counsel have conducted discovery and an investigation relating to the Claims during the prosecution of the Action. This discovery, investigation, and prosecution has included, among other things: (a) holding multiple meetings with Plaintiff; (b) propounding discovery on Defendant; (c) inspecting and analyzing documents and data produced by Plaintiff and Defendant; (d) analyzing the legal positions taken by Defendant and the developments in the law related to preemption of various provisions of the California Labor Code by federal statutes or regulations; (e) investigating the viability of class treatment of the Claims, including misclassification under both *Borello & Sons, Inc. v. Department of Industrial Relations*, 48 Cal. 3d 341 (1989), and *Dynamex Operations West v. Superior Court*, 4 Cal. 5th 903 (2018), *reh'g denied* (June 20, 2018), *as codified in* Cal. Labor Code §2775; (f) engaging in briefing in the District Court on Plaintiff's Motion to Remand and Defendant's Motion to Transfer; (g) working with Plaintiff on his Declaration in Support of Plaintiff's Opposition to Defendant's Motion to Transfer; (h) analyzing potential classwide damages prior to the mediation that

1 occurred in this Action; (i) researching the applicable law with respect to the Claims and the potential
2 defenses thereto; (j) exchanging information and analysis with Defense Counsel in advance of the
3 mediations; (k) assembling data for calculating damages; and (l) assessing the risk of further litigation
4 over class certification considering Defendant's misclassification and choice of law defenses,
5 application of the California Supreme Court's opinions in *Ward v. United Airlines, Inc.* (2020) 9 Cal.
6 5th 732, 264 Cal. Rptr. 3d 1, 466 P.3d 309, and *Oman v. Delta Air Lines, Inc.* (2020) 9 Cal. 5th 762,
7 264 Cal. Rptr. 3d 20, 466 P.3d 325, to Plaintiff's and the Class Members' interstate work, and
8 preemption of Plaintiff's meal period and rest period claims.

9 Class Counsel and Plaintiff have vigorously prosecuted this case, and Defendant has vigorously
10 contested it. The Parties have engaged in sufficient investigation and discovery to assess the relative
11 merits of the Claims and Defendant's defenses to them.

12 **D. Mediation.**

13 By agreement and based on classwide data provided by Defendant to Class Counsel, the Parties
14 mediated this case before Mark Rudy, Esq., a well-known and well-respected mediator, on January 3,
15 2023. After a full-day mediation, the case did not settle. However, Mr. Rudy presented the Parties with
16 a mediator's proposal. A week later, Defendant conditionally accepted the proposal, and Plaintiff
17 accepted the proposal. Over the course of the next several weeks, the Parties memorialized their
18 agreement in an MOU, which was fully executed on February 27, 2023.

19 **E. Allegations of Plaintiff and Benefits of Settlement.**

20 The District Court motion practice in this case, Defendant's responses to written discovery,
21 classwide pay and deduction data provided by Defendant to Class Counsel, Defendant's mediation
22 brief, and positions taken by Defendant during mediation, have given Plaintiff as Class Representative
23 and Class Counsel a sound understanding of the merits of the case and enough information to evaluate
24 the strength and weaknesses of the Claims of the Classes.

25 Plaintiff as Class Representative and Class Counsel believe that the claims, causes of action,
26 allegations, and contentions asserted in the Action have merit. However, Plaintiff as Class
27 Representative and Class Counsel recognize and acknowledge the expense and delay of continued
28 lengthy proceedings necessary to prosecute the Action against Defendant through trial and through

1 appeals. Class Counsel has considered the uncertain outcome and the risk of any litigation; the risk of
2 continued litigation in complex actions such as this, as well as the difficulties and delays inherent in
3 such litigation; the potential difficulty of certifying the California Class's claims, and, if certified
4 keeping the claims certified through trial; and the potential difficulty of keeping the FLSA claim
5 certified throughout the lengthy litigation process. Class Counsel is mindful of the inherent problems
6 of proof under, and possible defenses to, the Claims alleged in the Action. Class Counsel believes that
7 the Settlement in this Stipulation confers substantial benefits upon the Classes and that an independent
8 review of this Stipulation by the Court in the approval process will confirm this conclusion. Based on
9 their own independent investigation and evaluation, Class Counsel, being experienced in this area of
10 class action litigation, have determined that the Settlement in the Stipulation is in the best interests of
11 Plaintiff and the Class Members.

12 **F. Defendant's Denial of Wrongdoing and Liability.**

13 Defendant denies each and every one of the claims and contentions alleged by Plaintiff in the
14 Action. Defendant has expressly denied and continues to deny all charges of wrongdoing or liability
15 against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have
16 been alleged, in the Action. Defendant contends it complied in good faith with all applicable provisions
17 of California and federal law cited in the Complaint. Defendant further denies that, for any purpose
18 other than settling this Action, the Claims are appropriate for class, collective, or representative
19 treatment. Defendant further denies that it misclassified Plaintiff or the Class Members as independent
20 contractors and denies that California's misclassification test applies to Plaintiff or the Class Members.

21 Nonetheless, Defendant has concluded that further litigation relating to the Claims would be
22 protracted and expensive and that it is desirable that the Claims be fully and finally settled in the manner
23 and upon the terms and conditions set forth in this Stipulation in order to limit further expense,
24 inconvenience and distraction, to dispose of burdensome and protracted litigation, and to permit the
25 operation of Defendant's businesses without further expensive litigation and the distraction and
26 diversion of its personnel with respect to matters at issue in the Action. Defendant has also carefully
27 considered the uncertainty and risks inherent in any litigation, especially in complex cases such as the
28 Action. Defendant has, therefore, determined that it is desirable and beneficial that the Claims be settled

1 in the manner and upon the terms and conditions in this Stipulation.

2 **G. Intent of the Settlement.**

3 The Settlement in this Stipulation intends to achieve the following: (a) entry of an order
4 approving the Settlement and granting the monetary and other relief set forth in this Stipulation to the
5 Settlement Class Members; (b) entry of judgment and dismissal with prejudice of the Action;
6 (c) discharge of the Released Parties from liability for any and all of the Claims; (d) discharge of the
7 Released Parties from liability to Plaintiff under Section 1542; and (e) dismissal of the Federal Case
8 with prejudice.

9 **III. CONDITIONAL CLASS AND COLLECTIVE CERTIFICATION AND**
10 **APPOINTMENT OF CLASS COUNSEL AND CLASS REPRESENTATIVE.**

11 **A. The Classes.**

12 **1. The California Class.**

13 For purposes of the Settlement described in this Stipulation and the Settlement of this Action
14 only, the Parties agree to certification of the California Class as to the Claims brought under California
15 law pursuant to California Code of Civil Procedure §382. Defendant does not waive, and expressly
16 reserves, the right to challenge the propriety of class certification, or any other representative treatment
17 of Plaintiff's claims under California law, for any purpose, should the Court not grant final approval of
18 the Settlement.

19 **2. The FLSA Collective.**

20 For purposes of the Settlement described in this Stipulation and the Settlement of this Action
21 only, the Parties agree to conditional certification of the FLSA Collective as to Plaintiff's claims
22 brought under the FLSA. Defendant does not waive, and expressly reserves, the right to challenge the
23 propriety of collective certification, or any other representative treatment of Plaintiff's FLSA claims,
24 for any purpose, should the Court not grant final approval of the Settlement.

25 **B. Appointment of Class Counsel and Class Representative.**

26 For purposes of the Settlement described in this Stipulation and the Settlement of this Action
27 only, the Parties request that the Court find Plaintiff and Class Counsel adequate to represent the Class
28 Members under California law. Specifically, Plaintiff is adequate to represent and protect the interests

1 of other members of the Classes because he initiated this litigation, gathered documents and
2 information, provided a declaration to support his opposition to Defendant's Motion to Transfer,
3 assisted Class Counsel in preparing the opposition to Defendant's Motion to Transfer, met with his
4 attorneys to discuss mediation, and reviewed and approved the proposed settlement. (2007) *Capitol*
5 *People First v. State Dep't of Developmental Servs.*, 155 Cal. App. 4th 676, 696-97. In addition, Lebe
6 Law APLC has expended considerable time and effort on this case and will continue to do so through
7 final approval. Defendant does not waive, and expressly reserves, the right to challenge the propriety
8 class or collective certification and the adequacy of Plaintiff and Class Counsel to represent any Class
9 or Collective, for any purpose, should the Court not grant final approval of the Settlement.

10 **C. Stipulation Not Evidence.**

11 Evidence of this Stipulation to certification of a California Class and an FLSA Collective for
12 settlement purposes only will be deemed inadmissible for any other purpose in this or any other
13 proceeding.

14 **IV. SETTLEMENT CONSIDERATION**

15 **A. Gross Settlement Amount.**

16 Defendant shall fund the Gross Settlement Amount of \$1,250,000, which is non-reversionary.
17 The Gross Settlement Amount shall constitute adequate consideration for the Settlement and will be
18 made in full and final settlement of: (1) the Released Claims and any interest thereon; (2) Plaintiff's
19 Enhancement Award; (3) a general release by Plaintiff; (4) the Administrative Expenses; (5) Class
20 Counsel's attorney's fees and costs; (6) the PAGA Payment to the LWDA; and (7) any other
21 obligations of Defendant under this Stipulation. In no event shall Defendant pay more than \$1,250,000.

22 **B. Payment to Settlement Class Members.**

23 Each Settlement Class Member shall receive an Individual Settlement Amount, which shall be
24 calculated in accordance with Article VIII, Section D, paragraph 5. Defendant represents that, based
25 on data through September 2, 2022, there are approximately 74 individuals in the Class, including
26 Plaintiff. Extrapolating the data, the Settlement is based on 5,085 workweeks.

27 **1. Tax Treatment of Payments**

28 Individual Settlement Amounts paid to Settlement Class Members will be treated as non-wage

1 payments reported on IRS Form 1099s. In the event any portion of the Individual Settlement Amount
2 is ultimately construed by the IRS or any other taxing authority to be wages from which employment
3 taxes should have been withheld, Defendant will be responsible for payroll taxes normally borne by an
4 employer for the payments, with funding for such payments coming from outside the Gross Settlement
5 Amount.

6 **2. No Responsibility for Tax Liability or Advice.**

7 The Released Parties have no responsibility or liability for Class Members' tax liability for any
8 tax matters relating to any payments made under this Stipulation including, but not limited to, tax advice
9 and/or the withholding of or reporting of taxes.

10 **C. Enhancement Award for Plaintiff.**

11 Plaintiff may receive an Enhancement Award in an amount up to \$15,000, subject to Court
12 approval, for his efforts on behalf of the Classes in this Action, including assisting in investigation and
13 consulting with Class Counsel. Further, in exchange for receipt of an Enhancement Award, Plaintiff
14 shall execute a general release provided for in this Stipulation, which release will be effective upon the
15 Effective Date. Any Enhancement Award approved by the Court shall be paid to Plaintiff from the
16 Gross Settlement Amount and shall be in addition to any distribution to which Plaintiff may otherwise
17 be entitled as a Settlement Class Member. The Settlement Administrator will report the Enhancement
18 Award paid to Plaintiff on an IRS Form 1099. Plaintiff shall be responsible for the payment of any and
19 all taxes with respect to his Enhancement Award and shall hold Defendant harmless from any and all
20 liability with regard thereto.

21 **D. Administrative Expenses.**

22 All costs and expenses due to the Settlement Administrator in connection with its administration
23 of the Settlement, including, but not limited to, providing the Notice, locating Class Members,
24 processing Opt-In Consent Forms, and Opt-Out Requests, and calculating, administering, and
25 distributing Individual Settlement Amounts to the Settlement Class Members, shall be paid from the
26 Gross Settlement Amount. The Parties agree to cooperate in the settlement administration process and
27 to make all reasonable efforts to control and minimize the costs incurred in the administration of the
28 Settlement. The Settlement Administrator's estimate of its costs and expenses is not to exceed \$15,000.

1 **E. Class Counsel's Attorney's Fees and Costs.**

2 At the time Plaintiff submits the motion for final approval of the Settlement, Class Counsel may
3 submit a motion for an award of attorneys' fees not to exceed 33 1/3% of the Gross Settlement Amount,
4 and for reimbursement of costs not to exceed \$22,500, which will be heard by the Court at the Final
5 Approval and Fairness Hearing. As a condition of this Settlement, Class Counsel have agreed to pursue
6 their attorneys' fees, and costs with respect to the Claims only in the manner reflected by this Section.
7 Any attorneys' fees, and costs awarded by the Court shall be paid from the Gross Settlement Amount
8 and shall not constitute payment to any Class Members. The Settlement is not conditioned on the
9 Court's approval of Class Counsel's motion for attorneys' fees, and costs, and any amounts that are not
10 approved for attorneys' fees, costs, and expenses shall remain part of the Net Settlement Amount.

11 The attorneys' fees, and costs approved by the Court shall encompass, with respect to the
12 Claims: (a) fees for all work performed and costs incurred by, or at the direction of, Class Counsel,
13 Lebe Law, APLC, through the date of this Stipulation; (b) fees for all work to be performed and costs
14 and expenses to be incurred in connection with approval by the Court of the Settlement, including any
15 appeal arising out of an objection to the Settlement; and (c) fees for all work to be performed and costs
16 and expenses, if any, incurred in connection with administering the Settlement through final approval
17 of the Settlement and dismissal of the Action, with prejudice. The Settlement Administrator will report
18 the amount paid to Class Counsel on an IRS Form 1099. Class Counsel shall be responsible for the
19 payment of any and all taxes with respect to any attorney's fees and costs awarded by the Court.

20 **F. PAGA Payment.**

21 The PAGA Payment of \$100,000 is allocated to civil penalties recoverable under PAGA by the
22 Class Members, of which 75%, \$75,000, constitutes the PAGA Payment to the LWDA; and 25%,
23 \$25,000, will be included in the Remaining Net Settlement Amount to be distributed pro-rata among
24 the California Class Members.

25 **V. RELEASES AND WAIVERS.**

26 **A. Release of Claims by Settlement Class Members.**

27 In exchange for the Gross Settlement Amount, Plaintiff and the Settlement Class Members
28 release the Released Parties from the Released Claims as of the Effective Date.

B. General Release by Plaintiff.

In exchange for his Enhancement Award, Plaintiff shall release all claims Plaintiff has or might have by virtue of any fact(s), act(s) or event(s) occurring prior to the date the Court enters a final order approving the settlement and judgment. Specifically, Plaintiff, individually and on behalf of himself and his heirs, executors, administrators, and representatives, shall and does hereby forever release, discharge, and agree to hold harmless Defendant and the Released Parties from any and all claims, charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including attorney fees and costs), known or unknown, at law or in equity, which he may now have or may have at the signing of this Stipulation, against Defendant arising out of or in any way related to the Action, his alleged employment with Defendant, or contracts with Defendant, including the claims alleged in the Complaint, and any and all transactions, occurrences or matters between the Parties occurring prior to the Effective Date. Without limiting the generality of the foregoing, this release shall include, but not be limited to, any and all claims under the (i) Americans With Disabilities Act, as amended; (ii) Title VII of the Civil Rights Act of 1964, as amended; (iii) the Civil Rights Act of 1991; (iv) 42 U.S.C. § 1981, as amended; (v) the Age Discrimination in Employment Act, as amended; (vi) the Fair Labor Standards Act, as amended; (vii) the Equal Pay Act; (viii) the Employee Retirement Income Security Act, as amended; (ix) the Consolidated Omnibus Budget Reconciliation Act; (x) the Rehabilitation Act of 1973; (xi) the Family and Medical Leave Act; (xii) the Civil Rights Act of 1966; (xiii) the California Fair Employment and Housing Act; (xiv) the California Constitution; (xv) the California Labor Code; (xvi) the California Government Code; (xvii) the California Civil Code; and (xviii) any and all other federal, state and local statutes, ordinances, regulations, rules and other laws, and any and all claims based on constitutional, statutory, common law, or regulatory grounds as well as any other claims based on theories of wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or intentional and/or negligent infliction of emotional distress, or damages under any other federal, state or local statutes, ordinances, regulations, rules, or laws. This release is for any and all relief, no matter how denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages,

1 penalties, punitive damages, damages for pain and suffering, and attorney fees and costs, and the
2 Plaintiff hereby forever releases, discharge and agrees to hold harmless Defendant and the Released
3 Parties from any and all claims for attorney fees and costs arising out of the matters released in this
4 Stipulation.

5 Furthermore, Plaintiff expressly waives and relinquish the provisions, rights, and benefits of
6 Section 1542, which reads:

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

12 **VI. FILING AN AMENDED COMPLAINT.**

13 Pursuant to Section 2 of the MOU, within 7 days of the date upon which this Stipulation is fully
14 executed, the Parties will stipulate that Plaintiff may file the Complaint for the purpose of seeking
15 approval of a classwide, collective-wide, and representative settlement of the Class and FLSA claims,
16 and the PAGA claim. The Parties agree that Defendant will not file an answer; however, Defendant
17 denies and continues to deny any and all allegations in the Complaint. In addition, Class Counsel shall
18 file this Stipulation and request preliminary approval of the Settlement within the timeframe set out in
19 Article VII, Section A.

20 **VII. MOTIONS FOR COURT APPROVAL.**

21 **A. Preliminary Approval.**

22 Class Counsel will submit this Stipulation to the Court and request preliminary approval of the
23 Settlement within 21 days of the Court's granting of the Parties' stipulation to allow Plaintiff to file the
24 Complaint. If preliminary approval is not granted by the Court, Plaintiff will dismiss his Class and
25 FLSA Claims without prejudice in this Action, and the Parties will proceed as if they had not entered
26 into this Stipulation.

27 **B. Final Approval.**

28 Class Counsel will request final approval of the Settlement no later than 35 days after the Opt-

1 Out, Opt-In, and Objection Deadline. The Final Approval and Fairness Hearing shall be held in the
2 Superior Court for the State of California for the County of Alameda, no earlier than 174 days from the
3 Preliminary Approval Date, on a date to be determined by the Court.

4 At the Final Approval and Fairness Hearing, Class Counsel and Defense Counsel shall jointly
5 request the Court for the entry of the final order approving the Settlement as being fair, reasonable, and
6 adequate to the Settlement Class Members within the meaning of Section 382, and the FLSA, and for
7 the entry of a final judgment of dismissal with prejudice of the Claims consistent with the terms of the
8 Settlement. Class Counsel and Defense Counsel shall submit to the Court such pleadings and/or
9 evidence as may be required for the Court's determination.

10 **C. Settlement Not Approved.**

11 **1. Approval Denied—Negotiated Modified Proposal.**

12 In the event the Settlement is not preliminarily approved by the Court, the Parties agree to
13 negotiate in good faith to attempt to modify the proposed Settlement at the direction of the Court.

14 **2. Approval Denied—No Modification Possible.**

15 However, in the event the Settlement is not preliminarily approved by the Court, and no
16 modification is possible after attempts by the Parties to negotiate in good faith, Plaintiff shall dismiss
17 the FLSA and Class Claims from this Action without prejudice, and the Parties will proceed with the
18 Class Claims in the Federal Case.

19 **D. Dismissal with Prejudice of the Action.**

20 The Claims shall be dismissed with prejudice as part of the consideration for the Settlement.
21 Notwithstanding the dismissal of the Claims with prejudice, the Court shall retain jurisdiction to
22 interpret and enforce this Stipulation.

23 **E. Dismissal with Prejudice of the Federal Case.**

24 Upon entry of judgment in this Action, Class Counsel and Defense Counsel shall stipulate to
25 the dismissal with prejudice of Plaintiff's Class Action Complaint in the U.S. District Court for the
26 Northern District of California, Case No. 3:22-cv-00988-WHO.

27 **VIII. NOTICE TO CLASS MEMBERS AND SETTLEMENT ADMINISTRATION.**

28 **A. Class List.**

1 Defendant shall provide a Class List to the Settlement Administrator within 14 days after entry
2 and service of an Order Granting Preliminary Approval of this Settlement. The Class List will identify
3 each Class Member, his or her social security number, last known home address, any last known email
4 address on record, any last known telephone number on record, and the number of Weeks Worked
5 credited to each Class Member. The Class List shall be marked “Confidential–Settlement
6 Administrator’s Eyes Only.”

7 **B. Settlement Administration.**

8 The Settlement Administrator will be responsible for locating correct addresses for the Class
9 Members; mailing, and emailing the Class Notice to Class Members; handling inquiries from Class
10 Members concerning the Class Notice or any other issue; preparing, administrating, and distributing
11 settlement checks to Settlement Class Members; maintaining a website, the address for which will be
12 included in the Class Notice, and will provide Class Members with a method to opt-in to the FLSA
13 portion of the Settlement and information on final approval and final judgment; and performing such
14 other duties as the Parties may direct.

15 On a weekly basis, the Settlement Administrator will provide updates to Class Counsel and
16 Defense Counsel regarding the number of validated and timely received Opt-In Consent Forms, Opt-
17 Out Requests and any objections submitted by Class Members. The Settlement Administrator will serve
18 on Class Counsel and Defense Counsel via e-mail date-stamped copies of the original Opt-In Consent
19 Forms, Opt-Out Requests, challenges, objections, rescissions of Opt-Out Requests and withdrawal of
20 objections no later than 7 days after their receipt.

21 No later than 14 days following the Opt-Out, Opt-In and Objection Deadline, the Settlement
22 Administrator will compile and deliver to Class Counsel and Defense Counsel a final report with
23 information regarding (a) the final pro-rata portion of the Net Settlement Amount for each Settlement
24 Class Member, (b) the final number of Opt-Ins and (c) the final number of Opt-Outs. Further, at least
25 14 days prior to the Final Approval and Fairness Hearing, the Settlement Administrator shall provide
26 Class Counsel and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing
27 (Declaration) regarding the mailing of the Class Notice, its attempts to locate Class Members, and other
28 information regarding administration of the Settlement. Specifically, the Declaration shall include the

1 number of Class Members to whom Class Notices were sent, the number of Class Members to whom
2 Class Notices were not delivered, the number of Opt-In Consent Forms received, the number of Opt-
3 Out Requests, and the number and form of any objections received, which Class Counsel will file with
4 the Court no later than 7 days prior to the Final Approval and Fairness Hearing.

5 **C. Notice to Class Members.**

6 As soon as practicable after receiving the Class List, but no later than 28 days after the
7 Preliminary Approval Date, the Settlement Administrator shall send Class Counsel and Defense
8 Counsel a summary of its calculations of Estimated Individual Settlement Amounts. Within 35 days of
9 the Preliminary Approval Date, the Settlement Administrator shall send each Class Member the Class
10 Notice via first-class, United States mail and by email if an email was provided to the Settlement
11 Administrator. The Class Notice shall also contain an easily understood statement alerting the Class
12 Members that, by participating in the Settlement, the Class Member is releasing and waiving all
13 Released Claims against Defendant. The Class Notice shall further contain an easily understood
14 statement alerting the Class Members that, by submitting an Opt-In Consent Form, the Class Member
15 is releasing and waiving all claims under the FLSA against Defendant. In addition to the other
16 information contained on the Class Notice, the Class Notice shall state the estimated number of Weeks
17 Worked Defendant calculated from its records for each Class Member, and each Class Member's
18 Estimated Individual Settlement Amount. The Class Notice shall also include a website address for
19 Class Members, which they may access to opt-in to the FLSA portion of the Settlement and find
20 additional information regarding final approval and final judgment in this matter.

21 Any returned envelopes containing the Class Notice from this mailing with forwarding
22 addresses will be used by the Settlement Administrator to locate Class Members. In the event that, prior
23 to the Opt-Out, Opt-In, and Objection Deadline, any Class Notice mailed to a Class Member is returned
24 to the Settlement Administrator as having been undelivered by the U.S. Postal Service, the Settlement
25 Administrator shall perform a skip trace search and seek an address correction for such Class
26 Member(s) and a second Class Notice will be sent to any new or different address obtained. It will be
27 conclusively presumed that, if an envelope containing the Notice has not been returned within 28 days
28 of the mailing, the Class Member received the Class Notice.

1 **D. Calculation of Estimated Individual Settlement Amounts.**

2 To calculate Estimated Individual Settlement Amounts, which shall be included with the Class
3 Notice, the Settlement Administrator shall make the following presumptions and calculations:

4 **1. FLSA Collective Settlement Amount.**

5 For purposes of determining Estimated Individual Settlement Amounts, the Settlement
6 Administrator shall presume that all Class Members will submit Opt-In Consent Forms. Each member
7 of the FLSA Collective shall receive \$500 in exchange for the release of their FLSA claims against
8 Defendant.

9 **2. California Class Pro-Rata Amount.**

10 After allocating the FLSA Collective Settlement Amounts, to determine the Estimated
11 Individual Settlement Amount for Claims brought under California law, the Settlement Administrator
12 will distribute the Estimated Remaining Net Settlement Amount to the Class Members pro-rata based
13 on the number of weeks each Class Member performed services under contract with Defendant. For
14 purposes of determining Estimated Individual Settlement Amounts, the Settlement Administrator shall
15 presume that all Class Members will not opt-out of the Settlement of the Claims brought under
16 California law, including PAGA.

17 **a.** The Settlement Administrator will estimate the Remaining Net
18 Settlement Amount per Week Worked by dividing the Estimated Remaining Net Settlement Amount
19 by the total number of Weeks Worked in the Class Period for all Class Members.

20 **b.** The Settlement Administrator will estimate each Class Member's share
21 of the Estimated Remaining Net Settlement Amount, which is exchanged for release of their claims
22 under California law, including PAGA, by multiplying the Estimated Remaining Net Settlement
23 Amount per Week Worked by the number of Weeks Worked by the Class Member during the Class
24 Period.

25 **3. Estimated Individual Settlement Amount.**

26 Each Class Member's Estimated Individual Settlement Amount will be the sum of \$500 and
27 their pro-rata share of the Estimated Remaining Net Settlement Amount.

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1 **E. Opt-In Procedure.**

2 Class Members who want to receive FLSA Collective Settlement Amounts must complete and
3 mail to the Settlement Administrator the Opt-In Consent Form included with the Class Notice, or opt-
4 in through the website, the address for which will be included in the Class Notice. The written Opt-In
5 Consent Form must contain all the information requested on the form, and each Class Member must
6 submit their own Opt-In Consent Form for it to be valid. In addition, an Opt-In Consent Form must be
7 post-marked within the 60-day Opt-Out, Opt-In, and Objection Deadline (within 60 days of the
8 Settlement Administrator mailing the Class Notice) to be valid. The Settlement Administrator shall
9 determine the validity of all Opt-In Consent Forms and provide copies of valid Opt-In Consent Form
10 to Class Counsel and Defense Counsel. Class Counsel shall file all valid Opt-In Consent Forms with
11 the motion for final approval of the Settlement. None of the Parties, their counsel, nor any person on
12 their behalf, shall seek to solicit or otherwise encourage anyone to submit an Opt-In Consent Form.

13 In the event any Opt-In Consent Form is timely submitted but does not contain sufficient
14 information to be valid, within 7 days of receipt of the Opt-In Consent Form, the Settlement
15 Administrator shall provide the Class Member a letter requesting the information that was not provided
16 and giving the Class Member 14 days from the mailing of such cure letter to respond. Any invalid
17 submission that is not timely cured will be considered a nullity.

18 In the event any Opt-In Consent Form is submitted after the Opt-Out, Opt-In, and Objection
19 Deadline, the Settlement Administrator shall promptly inform Class Counsel and Defense Counsel.
20 Class Counsel and Defense Counsel shall meet and confer on whether to accept the untimely Opt-In
21 Consent Form.

22 **F. Opt-Out Procedure.**

23 This is not a claims-made settlement. Class Members, other than Plaintiff, who wish to exclude
24 themselves from the Settlement or Opt-Out, must mail to the Settlement Administrator an Opt-Out
25 Request. The written Opt-Out Request must contain the Class Member's full name, address, telephone
26 number, email address (if applicable), and last four digits of their social security number, and must be
27 signed individually by the Class Member. No Opt-Out Request may be made on behalf of a group. An
28 Opt-Out Request must be post-marked no later than the Opt-Out, Opt-In, and Objection Deadline. Any

1 Opt-Out Requests received after the Opt-Out, Opt-In, and Objection Deadline will be invalid. None of
2 the Parties, their counsel, nor any person on their behalf, shall seek to solicit or otherwise encourage
3 anyone to exclude themselves from the Settlement.

4 In the event any Opt-Out Request is timely submitted but does not contain sufficient information
5 to be valid, the Settlement Administrator shall provide the Class Member, within 7 days, a letter
6 requesting the information that was not provided and giving the Class Member 14 days from the
7 mailing of such cure letter to respond. Any invalid submission that is not timely cured will be
8 considered a nullity.

9 **G. Objections.**

10 The Class Notice shall inform the Class Members of their right to object to the Settlement. Any
11 Class Member who wishes to object to the Settlement must file and deliver a written objection with the
12 Court and serve copies of the written objection to Class Counsel and Defense Counsel no later than the
13 Opt-Out, Opt-In, and Objection Deadline. The date of delivery of the written objection is deemed to be
14 the date the objection is deposited in the U.S. mail, postage prepaid, as evidenced by the postmark. If
15 postmark dates differ, the later of the two postmark dates will control. The objection must include the
16 objector's name, address, telephone number, email address (if applicable), and the case name and
17 number, and must set forth, in clear and concise terms, a statement of the reasons why the objector
18 believes that the Court should find that the Settlement is not in the best interest of the Class Members
19 and the reasons why the Settlement should not be approved, including the legal and factual arguments
20 supporting the objection. The Class Notice shall advise Class Members that objections shall only be
21 considered if the Class Member has not opted out of the Settlement; in other words, to file an objection
22 or voice an oral objection, the Class Member must be a Settlement Class Member. Notwithstanding
23 the above, a Class Member may make an oral objection to the Settlement by appearing at the Final
24 Approval and Fairness Hearing and providing such an oral objection either in person or through a
25 lawyer retained at their own expense. Settlement Class Members who fail to make timely written
26 objections in the manner specified above, or who fail to make an oral objection and the Final Approval
27 and Fairness Hearing, shall be deemed to have waived any objections and oppositions to the
28 Settlement's fairness, reasonableness and adequacy, and shall be foreclosed from making any objection

(whether by appeal or otherwise) to the Settlement. However, the requirement that the Settlement Class Member submit a written objection may be excused by the Court. None of the Parties, their counsel, nor any person on their behalf, shall seek to solicit or otherwise encourage anyone to object to the settlement, or appeal from any order of the Court that is consistent with the terms of this Settlement.

H. Disputes.

To the extent that any Class Member disputes the number of Weeks Worked as shown in his or her Class Notice, such Class Member may produce evidence to the Settlement Administrator establishing the Work Weeks to which the disputing Class Member believes he or she is entitled. The deadline for Class Members to submit disputes pursuant to this paragraph is the Opt-Out, Opt-In, and Objection Deadline. Unless the Class Member presents evidence proving he or she worked more workweeks than shown by Defendant's records, his/her Individual Settlement Amount will be determined based on Defendant's records.

The Settlement Administrator shall notify counsel for the Parties of any disputes it receives. Defendant shall review its records and provide further information to the Settlement Administrator, as necessary and to the extent such information exists in Defendant's records. The Settlement Administrator shall provide a recommendation to counsel for the Parties stating whether the original number of Work Weeks credited to the Class Member should stay the same or should change and the proposed changes. Counsel for the Parties shall then meet and confer in an effort to resolve the dispute. If the Parties cannot resolve the dispute, they shall present it to the Court for a resolution. The Settlement Administrator will notify the disputing Class Member of the decision.

Any changes to a Class Member's Weeks Worked will be reflected in the total weeks worked for the entire California Class. For example, if Class Member "A" disputed his or her Weeks Worked and provides satisfactory evidence that his or her Weeks Worked should be increased by two weeks, and the Settlement Administrator, in consultation with Defendant, Defense Counsel, and Class Counsel, agree the records substantiate the Class Member's claim, the total Weeks Worked for the California Class will be increased by two weeks for purposes of calculating Individual Settlement Amounts.

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1 **IX. PAYMENT BY DEFENDANT OF THE GROSS SETTLEMENT AMOUNT AND**
2 **GROSS SETTLEMENT AMOUNT DISTRIBUTION.**

3 **A. Qualified Settlement Fund.**

4 The Settlement Administrator shall provide Defense Counsel with an escrow agreement within
5 7 days of the Preliminary Approval Date to set up a Qualified Settlement Fund (the QFS) that satisfies
6 the requirements of Treasury Regulation Section 1.468B-1.

7 **B. Provision of Final Order to Settlement Administrator.**

8 Within 7 days after the Effective Date, Class Counsel shall provide a copy of the Final Order
9 Approving Settlement and Judgment to the Settlement Administrator.

10 **C. Wire Transfer of Gross Settlement Amount.**

11 Within 14 days of the Effective Date, Defendant will remit the Gross Settlement Amount to the
12 Settlement Administrator by wire transfer. Upon receipt by the Settlement Administrator, these funds
13 shall be transferred immediately to the QFS. Except for any costs associated with distribution of the
14 Class Notice, the Gross Settlement Amount, plus any interest earned on the Gross Settlement Amount,
15 shall be refunded to Defendant if the Settlement does not obtain final approval or otherwise does not
16 become final, or the Effective Date does not occur.

17 **D. Allocation of Gross Settlement Amount.**

18 The Claims of all Settlement Class Members are settled for the Gross Settlement Amount of
19 \$1,250,000, which will be allocated as follows:

20 **1. Administrative Expenses.**

21 Administrative Expenses shall not exceed \$15,000.

22 **2. Plaintiff's Enhancement Award.**

23 Plaintiff's Enhancement Award shall not exceed \$15,000, as approved by the Court.

24 **3. Class Counsel's Attorney's Fees and Costs.**

25 Class Counsel's attorney's fees shall not exceed 33 1/3% of the Gross Settlement Amount; and
26 Class Counsel's costs shall not exceed \$22,500, as approved by the Court.

27 **4. PAGA Payment to the LWDA.**

28 The PAGA Payment to the LWDA shall be \$75,000.

1 **5. The Net Settlement Amount.**

2 The Net Settlement Amount shall be allocated and distributed among the Settlement Class
3 Members in Individual Settlement Amounts. Individual Settlement Amounts will equal the sum of the
4 Settlement Class Member's FLSA Collective Settlement Amount, if any, and their California Class
5 Pro-Rata Amount, if any.

6 **a. FLSA Collective Settlement Amount.**

7 Each Class Member who submits a valid Opt-In Consent Form shall receive \$500 in exchange
8 for the release of their claims under the FLSA.

9 **b. California Class Pro-Rata Amount.**

10 After the FLSA Collective Settlement Amounts have been allocated, the Remaining Net
11 Settlement Amount will be distributed pro-rata to members of the California Class based on the number
12 of Weeks Worked determined by the contract and termination dates in Defendant's records for each
13 California Class Member. Specifically, the Settlement Administrator will calculate the Remaining Net
14 Settlement Amount per Week Worked by dividing the Remaining Net Settlement Amount by the total
15 number of Weeks Worked in the Class Period for all California Class Members. Then, the Settlement
16 Administrator will calculate each California Class Member's share of the Remaining Net Settlement
17 Amount, by multiplying the Remaining Net Settlement Amount per Week Worked by the number of
18 Weeks Worked by the California Class Member during the Class Period.

19 **E. Time for Payment from the Gross Settlement Amount.**

20 **1. Payment of the PAGA Payment to the LWDA.**

21 Within 21 days of the Effective Date, the Settlement Administrator will send a copy of the Final
22 Order Approving Settlement and Judgment and the PAGA Payment to the LWDA to: Department of
23 Industrial Relations, Accounting Unit, 455 Golden Gate Avenue, 10th Floor, San Francisco, CA 94102.

24 **2. Payment of the Enhancement Award.**

25 The Settlement Administrator shall pay the Enhancement Award to Plaintiff, as approved by
26 the Court, within 21 days of the Effective Date.

27 **3. Payment of Attorney's Fees and Costs.**

28 The Settlement Administrator shall pay any attorney's fees and costs approved by the Court to

1 Class Counsel by wire transfer within 21 days of the Effective Date. Class Counsel will provide the
2 Settlement Administrator with the necessary IRS W-9 Form, tax ID numbers, and bank routing
3 information for the payment.

4 **4. Payment of Administrative Expenses.**

5 The Settlement Administrator shall pay its expenses, up to \$15,000, within 21 days of the
6 Effective Date. Payment of the Administrative Expenses shall not relieve the Settlement Administrator
7 from continuing its services under this Stipulation.

8 **5. Payment of the Individual Settlement Amounts.**

9 The Settlement Administrator will make every effort to mail, by first-class U.S. mail, to the
10 last-known address, the Individual Settlement Amount to each Settlement Class Member no later than
11 21 days after the Effective Date. If the Settlement Administrator is not able to mail the Individual
12 Settlement Amounts to Settlement Class Members within the time period set forth above, it shall so
13 inform Class Counsel and Defense Counsel and provide an approximate date by which the Individual
14 Settlement Amounts will be mailed. Under no circumstances shall the Settlement Administrator
15 distribute checks to Settlement Class Members until all disputes of Estimated Individual Settlement
16 Amounts have been resolved, all Individual Settlement Amounts calculated, and accounted for, and the
17 obligations set forth in Sections A through D have been calculated and approved by the Court. In the
18 event any Settlement Class Member is deceased, payment shall be made payable to the estate of that
19 Settlement Class Member and delivered to the executor or administrator of that estate, unless the
20 Settlement Administrator has received an affidavit or declaration pursuant to California Probate Code
21 § 13101, in which case payment shall be made to the affiant(s) or declarant(s).

22 Within 14 days following the Settlement Administrator's duties in Section (F) below, the
23 Settlement Administrator shall provide a declaration of payment to Class Counsel, who will be
24 responsible for filing it with the Court.

25 **F. Returned and Uncashed Individual Settlement Amount Checks.**

26 Each Settlement Class Member must cash his or her Individual Settlement Amount check within
27 120 days after it is mailed to him or her. If a check is returned to the Settlement Administrator, the
28 Settlement Administrator may make such efforts, if any, as it deems to be reasonable to re-mail it to

1 the Settlement Class Member at his or her correct address. If any Settlement Class Member's Individual
2 Settlement Amount check is not cashed within 90 days after it is mailed or re-mailed, whichever is
3 later, the Settlement Administrator will send the Settlement Class Member a reminder postcard
4 informing him or her that, unless the check is cashed within 120 days after the date on the check, it will
5 expire and become non-negotiable and offering to replace the check if it was lost or misplaced, but not
6 cashed. If the check remains uncashed by the expiration of the 120-day period, the Settlement
7 Administrator will pay over the Individual Settlement Amount represented by the check to the
8 California State Controller – Unclaimed Property Division, with the identity of the Settlement Class
9 Member to whom the funds belong. In such event, the Settlement Class Member will nevertheless
10 remain bound by the Settlement.

11 Alternatively, if required by the Court, the parties agree that any uncashed Individual Settlement
12 Amount checks will be donated to Bet Tzedek, in *cy pres*. In such event, the Settlement Class Member
13 will nevertheless remain bound by the Settlement.

14 **X. NULLIFICATION OF THIS STIPULATION.**

15 **A. Non-Approval of the Stipulation.**

16 If (1) the Court should for any reason decline to approve this Stipulation in the form agreed to
17 by the Parties, or (2) the Court should for any reason fail to enter a judgment and dismissal with
18 prejudice of the Action, or (3) the judgment and dismissal is reversed, modified or declared or rendered
19 void, then the Stipulation and Settlement shall be considered null and void, and the Stipulation,
20 Settlement, or any of the related negotiations or proceedings, shall be of no force or effect, and all
21 parties to the Stipulation shall stand in the same position, without prejudice, as if the Stipulation had
22 been neither entered into nor filed with the Court. Notwithstanding the foregoing, the Parties may
23 attempt in good faith to cure any perceived defects in the Stipulation to facilitate approval as provided
24 in Section VII.C. above. However, if the Parties' attempts fail, then Plaintiff will dismiss without
25 prejudice his claims under the FLSA and those under California law, except the PAGA claim; and the
26 Parties will proceed with the PAGA claim in this Action. The Parties will be equally responsible for all
27 charges incurred by the Settlement Administrator as of the date of entry of any order denying
28 preliminary or final approval of this Stipulation.

1 **B. Plaintiff’s Right to Reject the Settlement.**

2 **1. Period to Consider Terms of Agreement.**

3 Plaintiff acknowledges that he is entitled to and has been given 21 days to consider whether to
4 accept the terms of the release given in Article V, Section B of this Stipulation. If Plaintiff executes
5 this Stipulation before the expiration of the 21-day period, he does so voluntarily, upon the advice and
6 with the approval of Class Counsel, and he expressly and voluntarily waives his right to consider the
7 release in Article V, Section B for any remaining portion of that 21-day period.

8 **2. Revocation of Agreement.**

9 Plaintiff understands that, after executing this Stipulation, he has the right to revoke it within
10 7 days after execution. Plaintiff understands that this Agreement will not become effective and
11 enforceable unless and until the 7-day revocation period has passed. Notice of the revocation of this
12 Stipulation must be in writing and delivered to Defense Counsel, Christopher J. Eckhart, Scopelitis,
13 Garvin, Light, Hanson & Feary, P.C., 10 West Market Street, Suite 1400, Indianapolis, Indiana, 46204,
14 ceckhart@scopelitis.com. The release provided for in Article V, Section B by Plaintiff shall become
15 effective and enforceable as of the Effective Date, provided that the Effective Date occurs after the 7-
16 day revocation period has passed.

17 **3. Plaintiff’s Option to Blow-Up the Settlement.**

18 Plaintiff, at his option, can blow-up (reject) the Settlement if there is a 10% increase in the
19 number of workweeks between the mediation date and the date the parties agree is the end of the Class
20 Period. The reported workweeks at mediation were 5,085.

21 **C. Defendant’s Right to Blow-Up the Settlement.**

22 Defendant, at its option, can blow-up (reject) the Settlement if eight (8) or more members of the
23 California Class opt out of the Settlement.

24 **XI. MISCELLANEOUS PROVISIONS.**

25 **A. Duties of the Parties.**

26 **1. Mutual Full Cooperation.**

27 The Parties agree to cooperate fully with one another to accomplish and implement the terms
28 of this Stipulation. Such cooperation shall include, but not be limited to, execution of such other

documents and the taking of such other actions as may reasonably be necessary to fulfill the terms of this Stipulation. The Parties shall use their best efforts, including all efforts contemplated by this Stipulation and any other efforts that may become necessary by court order, or otherwise, to effectuate this Stipulation and the terms set forth herein. As soon as practicable after execution of this Stipulation, Class Counsel, with the cooperation of Defendant and Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of this Stipulation.

2. Duty to Support and Defend the Stipulation.

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

3. Duties Prior to Court Approval.

a. Class Counsel.

Class Counsel shall promptly submit this Stipulation to the Court for preliminary approval and determination by the Court as to its fairness, adequacy, and reasonableness, and apply to the Court to (a) issue an order preliminarily approving the Settlement as fair, adequate, and reasonable as to all Class Members; (b) approving as to form and content the proposed Class Notice attached hereto as **Exhibit 1**; (c) approving as to form the Opt-In Consent Form, attached hereto as **Exhibit 2**, and procedure; and (d) directing the mailing of the Class Notice and Opt-In Consent Form to Class Members.

b. Defense Counsel.

Defense Counsel shall file a notice of non-opposition to the motion for preliminary approval or join in the motion.

B. Different Facts.

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

1 **C. No Prior Assignment.**

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

6 **D. Non-Admission.**

7 Nothing in this Stipulation shall be construed to be or deemed an admission by Defendant of
8 any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Class Members, or any other
9 person, and Defendant specifically disclaims any liability, culpability, negligence, or wrongdoing
10 toward Plaintiff, the Class Members, or any other person. Each of the Parties has entered into this
11 Stipulation with the intention to avoid further disputes and litigation with the attendant inconvenience,
12 expenses, and contingencies. Nothing herein shall constitute any admission by Defendant of
13 wrongdoing or liability, or of the truth of any factual allegations in the Action. Nothing herein shall
14 constitute an admission by Defendant that the Action was properly brought as a class, collective or
15 representative action other than for settlement purposes. To the contrary, Defendant has denied and
16 continues to deny each and every material factual allegation and alleged claim asserted in the Action.
17 To this end, the Settlement of the Action, the negotiation and execution of this Stipulation, and all acts
18 performed or documents executed pursuant to or in furtherance of this Stipulation, shall not be deemed
19 to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of
20 Defendant or of the truth of any of the factual allegations in the Complaint in the Action; and are not,
21 shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omission
22 on the part of Defendant in any civil, criminal or administrative proceeding in any court, administrative
23 agency, or other tribunal.

24 **E. Public Comments Regarding the Litigation or the Stipulation.**

25 Neither Plaintiff nor Plaintiff's counsel shall issue any press release related to the Settlement.
26 Plaintiff and Plaintiff's counsel agree that, prior to preliminary approval of the Settlement, they will
27 keep the terms of the Settlement confidential except for purposes of communicating with Plaintiff only.
28 Plaintiff shall be informed that the Settlement is confidential and shall be advised to keep the Settlement

1 confidential. From and after preliminary approval of the Settlement, Plaintiff and Plaintiff's counsel
2 may: (i) as required by law; (ii) as required under the terms of the Settlement; or (iii) as required under
3 counsel's duties and responsibilities as Class Counsel, comment regarding the specific terms of the
4 Settlement with Settlement Class Members. In all other cases, Plaintiff and Plaintiff's counsel agree to
5 limit their statements regarding the terms of the Settlement, whether oral, written, or electronic
6 (including the world wide web), to say the Action has been resolved and that Plaintiff and Plaintiff's
7 counsel are satisfied with the Settlement terms. Nothing in this paragraph is intended to interfere with
8 Plaintiff's counsel's duties and obligations to faithfully discharge their duties as Class Counsel,
9 including but not limited to, communicating with Settlement Class Members regarding the Settlement
10 Agreement.

11 **F. Non-Retaliation.**

12 Defendant understands and acknowledges that it has a legal obligation not to retaliate against
13 any Class Member. Defendant will refer any inquiries regarding this Stipulation to the Settlement
14 Administrator or Class Counsel and will not discourage Class Members, directly or indirectly, from
15 participating in, opting out of, or objecting to the Stipulation.

16 **G. Construction.**

17 The Parties hereto agree that the terms and conditions of this Stipulation are the result of
18 lengthy, intensive, arms-length negotiations between the Parties and that this Stipulation is not to be
19 construed in favor of or against any party by reason of the extent to which any party or his or its counsel
20 participated in the drafting of this Stipulation.

21 **H. Governing Law.**

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

25 **I. Notices.**

26 Except for the Class Notice sent to Class Members by the Settlement Administrator, any and
27 all notices or other communications required or permitted under this Stipulation shall be in writing and
28 shall be sufficiently given if delivered in person to the party or their counsel or if sent to the party

1 without counsel by United States certified mail, postage prepaid, e-mail, facsimile, or overnight
2 delivery addressed to the address of the party appearing in this Stipulation.

3 **J. Captions and Interpretations.**

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

7 **K. Modification.**

8 This Stipulation may not be changed, altered, or modified, except in writing signed by the
9 Parties and approved by the Court. This Stipulation may not be discharged except by performance in
10 accordance with its terms or by a writing signed by the Parties.

11 **L. Integration Clause.**

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

17 **M. Successors and Assigns.**

18 This Stipulation shall be binding upon and inure to the benefit of the Parties and their respective
19 present and former heirs, trustees, executors, administrators, representatives, officers, directors,
20 shareholders, agents, employees, insurers, attorneys, accountants, auditors, advisors, consultants,
21 pension and welfare benefit plans, fiduciaries, parent companies, subsidiaries, affiliates, related
22 companies, joint ventures, predecessors, successors, and assigns.

23 **N. Class Counsel Signatories.**

24 Because the Class Members are so numerous, the Parties agree that it is impossible or
25 impractical to have each Class Member sign this Stipulation. It is agreed that, for purposes of seeking
26 approval of the Stipulation and Settlement, this Stipulation may be executed on behalf of the Class
27 Members by Class Counsel and the Class and Collective Representative.

28 //

1 **O. Corporate Signatories.**

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

5 **P. Execution in Counterparts.**

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

9 **Q. Attorney Fees, Costs, and Expenses.**

10 Except as otherwise specifically provided for herein, each party shall bear his or its own
11 attorneys' fees, costs, and expenses, taxable or otherwise, incurred by them with respect to the Claims
12 in the Action and shall not seek reimbursement thereof from any other party to this Stipulation.

13 **R. Action to Enforce Stipulation.**

14 In any suit or court action to enforce the terms of this Stipulation, the prevailing party shall be
15 entitled to recover attorneys' fees, costs, and expenses.

16 **S. Continuing Jurisdiction.**

17 The Court has, and shall continue to have, jurisdiction to make any orders as may be appropriate
18 to effectuate, consummate, and enforce the terms of this Agreement, to approve the award of attorneys'
19 fees and costs pursuant hereto, and to supervise the administration and distribution of money from the
20 Settlement fund pursuant to California Code of Civil Procedure Section 664.6.

21 [Signature Blocks on Next Page]
22
23
24
25
26
27
28

1 Dated: April 27, 2023

Approved as to form,

2 SCOPELITIS, GARVIN, LIGHT, HANSON
3 & FEARY, P.C.

4 /s/ 

5 Christopher J. Eckhart

6 *Attorney for Defendant,*
7 *Wilson Logistics, Inc.*

8
9 Dated: April 26, 2023

Approved as to form

10 LEBE LAW, APLC

11 

12 Jonathan M. Lebe
13 Zachary T. Gershman

14 *Attorneys for Plaintiff,*
15 *Brian Thomas Ruff, individually and on*
16 *behalf of all others similarly situated and on behalf of*
17 *all aggrieved employees*

18 Dated: April 26, 2023

PLAINTIFF, INDIVIDUALLY AND ON BEHALF
OF ALL OTHERS SIMILARLY SITUATED AND ON
BEHALF OF ALL AGGRIEVED EMPLOYEES

19 

20 Brian Thomas Ruff (Apr 26, 2023 13:34 MDT)

21 Brian Thomas Ruff

22 Date: April 26, 2023

DEFENDANT, WILSON LOGISTICS, INC.

23
24 By: 

25 Printed Name: Brian Smith

26 Title: General Counsel

EXHIBIT 1

**Brian Thomas Ruff, et al. v. Wilson Logistics, Inc.,
Case No. 22CV008614 (Alameda County, California Superior Court)**

**NOTICE OF PROPOSED CLASS AND COLLECTIVE ACTION SETTLEMENT
AND HEARING DATE FOR COURT APPROVAL**

TO: Persons who provided transportation services in California under an independent contractor operating agreement with Wilson Logistics, Inc., between June 26, 2017, to [REDACTED], and were a resident of the State of California while under contract with Wilson Logistics, Inc., please read this Notice.

A class and collective action lawsuit may affect your legal rights.

A California Superior Court authorized this notice. This is not a solicitation from a lawyer.

- Wilson Logistics, Inc., been sued for alleged violations of the Fair Labor Standards Act for payments under the minimum wage going back to December 21, 2018 (“FLSA claims”); violations of the California Labor Code going back to June 26, 2017; and violation of the California Private Attorneys General Act (“PAGA”) going back to July 23, 2020 (the California Labor Code and PAGA claims, collectively, “California claims”).
- By agreement of the parties, the Superior Court for the State of California for the County of Alameda has certified this lawsuit to proceed as a class and collective action.
- You have been identified as a member of the class. Your rights may be affected. And you have choices to make:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
OPT-IN to FLSA SETTLEMENT	Opt-in to the FLSA settlement. Receive a settlement payment. Give up the right to sue. By filling out the FLSA opt-in form, you will opt-in to the FLSA settlement. This means you would receive \$500 in addition to any money you are entitled to receive from the settlement for the California claims. But you will give up any rights to sue Wilson Logistics, Inc., separately about the same legal claims in this lawsuit under the FLSA. To opt-in to the FLSA settlement, you must act before [REDACTED].
DO NOTHING ELSE	Stay in this lawsuit as to the California claims. Receive a settlement payment. Give up the right to sue. By doing nothing else, you will receive a check for your pro-rata share of the Remaining Net Settlement Amount, after the Class Members who participate in the FLSA settlement are attributed their extra \$500. Although you must affirmatively opt-in to the settlement to receive payment for settling the FLSA claims, you do not have to do anything else to receive payment for the California claims. But you give up any rights to sue Wilson Logistics, Inc., separately about the same legal claims in this lawsuit.
ASK TO BE EXCLUDED	Get out of this lawsuit. Get no benefits from it. Keep rights. If you ask to be excluded, you won’t receive any money. But you keep any rights you otherwise have to sue Wilson Logistics, Inc., separately about the same legal claims in this lawsuit. To ask to be excluded, you must act before [REDACTED].

BASIC INFORMATION

1. Why did I get this notice?

The records kept by Wilson Logistics, Inc., show that you drove in California under Wilson Logistics' motor carrier authority during the period from June 26, 2017, through [date] and entered into an independent contractor owner operator agreement with Wilson Logistics. The Court has certified a class action lawsuit that may affect you. You have legal rights and options that you may exercise at this time in the lawsuit *Brian Thomas Ruff, et al. v. Wilson Logistics, Inc.*, Case No. 22CV008614, that is pending in the Superior Court for the State of California for the County of Alameda.

2. What is a class and collective action and who is involved?

In a class and collective action lawsuit, one or more people called "Class and Collective Representatives" (in this case Brian Thomas Ruff) sue on behalf of other people who have similar claims. The people together are a "Class" or a "Collective." The Class and Collective Representatives who sue—and all the Class and Collective Members like them—are called Plaintiffs. The entity they sued (in this case Wilson Logistics, Inc.) is called the Defendant. One court resolves the issues for everyone who does not exclude themselves, or, in the case of the FLSA Collective, for those who opt-in.

3. Why is this lawsuit a class and collective action?

To facilitate the settlement reached between the parties and for purposes of the settlement only, the Court has preliminarily decided that this lawsuit can proceed as a class and collective action because it meets the requirements of California Code of Civil Procedure §382, which governs class actions, and 29 U.S.C. § 216, which governs FLSA collective actions. Specifically, the Court found that there are a sufficient number of people who were subject to the alleged employment policies at issue in this case, that there are legal questions common to each of them, that the Class and Collective Representative will fairly and adequately represent the Classes' interests; and that this class and collective action will be more efficient than having many individual lawsuits.

4. What is this lawsuit about?

Plaintiff claims that Defendant violated the FLSA, the California Labor Code, and the California Business and Professions Code, and that Plaintiff is entitled to seek penalties under PAGA for the California Labor Code violations. Plaintiff alleges Wilson Logistics, Inc., misclassified its drivers as independent contractors; at times paid drivers less than the minimum wage; failed to pay drivers for all hours worked; failed to provide uninterrupted meal and rest breaks; failed to pay for rest breaks drivers took; failed to reimburse drivers for business-related use of their personal cell phones, unlawfully took deductions from wages; failed to provide accurate, itemized wage statements; and failed to pay all wages owed at the time drivers' contracts terminated.

5. What is the Plaintiff asking for?

Plaintiff's claims are under the FLSA, the California Labor Code, the California Business and Professions Code, and PAGA. Under those laws, plaintiffs may seek to recover unpaid wages, liquidated statutory damages, statutory penalties, and other economic losses, and civil penalties. Plaintiff is also asking for his reasonable attorney's fees and the costs of the lawsuit to be paid by Defendant.

6. What is the position of Defendant?

Defendant contends its policies were lawful, all drivers were properly classified as independent contractors and compensated correctly under their contract(s) with Defendant. Further, Defendant denies that it violated the FLSA, the California Labor Code, the California Business and Professions Code, or any other California law, and it denies that penalties are appropriate under PAGA.

7. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a settlement. The Class and Collective Representative and Class Counsel think the settlement is in the best interest of the Classes.

8. Is there any money available from the settlement?

To settle this case, Defendant has agreed to pay a total of \$1,250,000.00 ("Gross Settlement Amount") inclusive of all alleged unpaid wages, earnings or other injuries, liquidated damages, actual damages, statutory damages, restitution, penalties, interest, costs and attorney's fees. All members of the Class who participate in the FLSA settlement by affirmatively opting in will receive \$500. All members of the Class who do not opt-out of the California Class will receive an amount calculated based on the number of weeks worked during the relevant time period. Based on Defendant's records, you are expected to receive an allocation based on [] total weeks worked during the period between June 26, 2017, through [date].

9. What if I disagree with the number of weeks worked shown above?

If you dispute the number of weeks worked as shown on this Notice, you may produce evidence of the number of workweeks you think you are entitled to and mail it to the settlement administrator postmarked on or before [date], to: [Settlement administrator information]

The settlement administrator will notify you of the decision on any dispute of weeks worked.

10. How will taxes be handled on the money?

For tax purposes, settlement payments will be paid without withholdings and will be reported to the IRS on an IRS Form 1099 under the payee's name and social security number, or tax identification number previously provided to Defendant. You will be responsible to pay any income taxes required on the payment you receive.

YOUR RIGHTS AND OPTIONS

11. How do I opt-in to the FLSA settlement?

If you drove for Defendant in California after December 21, 2018, entered into an independent contractor operating agreement with Wilson Logistics, Inc., were classified as an independent contractor, and were a California resident, you may opt-in to the FLSA settlement by completing the enclosed opt-in form. You will then be entitled to an additional \$500 from the settlement proceeds in this case. By opting in, you will agree to be bound by the settlement agreement and to release any claims you may have against Defendant under the FLSA.

12. What happens if I do nothing at all?

If the Court issues final approval of the settlement, you will receive a check for your respective settlement amount, though not an additional \$500 based on FLSA claims unless you opt-in. You will also be bound by any orders the Court issues in this case, and you will be forever barred from suing Wilson Logistics, Inc., for the conduct at issue during the time periods at issue in this lawsuit, other than claims under the FLSA.

13. Why would I ask to be excluded?

If you already have your own lawsuit against Defendant about the same claims in this lawsuit and want to continue with it, you need to ask to be excluded from the Class. If you exclude yourself, you will not be legally bound by the Court's judgment in this case. If you start your own lawsuit against Defendant after you exclude yourself, you'll have to hire and pay your own lawyer for that lawsuit, and you'll have to prove your claims. If you do exclude yourself so you can start or continue your own lawsuit against Defendant you should talk to your own lawyer soon, because your claims may be subject to a statute of limitations.

14. How do I ask the Court to exclude me in this case?

To ask to be excluded, you must send an “Opt-Out Request” in the form of a letter sent by mail, stating that you want to be excluded from this case. Be sure to include your name, address, telephone number, the last four digits of your social security number or EIN number and sign the letter. You must mail your Opt-In Request postmarked on or before [date], to: [Settlement Administrator Information]

RELEASE OF CLAIMS

15. What claims am I releasing?

Upon the date the settlement becomes effective (“Effective Date”), any class member who does not timely provide an Opt-Out Request will release Defendant, and all its present and former officers, directors, shareholder, agents, employees, representatives, attorneys, parent companies, subsidiaries, divisions, affiliates, related companies, successors, and assigns (collectively, the released parties) from: .

- All wage and hour claims under federal and state law that were brought or could have been brought in this Action based on the facts alleged in the First Amended Complaint, and any amendments thereto, including claims under the California Labor Code for unpaid minimum wages, unlawful deductions from wages, unreimbursed business expenses, failure to provide meal and rest breaks, unpaid rest breaks, derivative claims under California Labor Code §§ 203, 204 and 226 or any similar section, failure to keep records, and penalties under PAGA.
- For individuals who opt-in to the FLSA settlement, the released claims also include any and all claims, known or unknown, under the FLSA, 29 U.S.C. §§ 206, *et seq.*, that were pled or could have been pled based on the factual allegations of the Complaint.

THE LAWYERS AND PLAINTIFF REPRESENTING YOU

16. Do I have a lawyer in this case?

The Court decided that the law firm of Lebe Law, APLC, is qualified to represent you and all Class Members. The law firm is called “Class Counsel.” More information about the law firm is available at www.lebelaw.com.

17. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. If you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

18. How will Class Counsel and Plaintiff be paid?

Class Counsel will ask the Court for attorney’s fees up to 33 1/3% of the settlement as well as their reasonable costs, and a payment of \$15,000.00 as an enhancement award to the Class and Collective Representative. Defendant has agreed not to oppose these requests. The Court may award less than these amounts.

OBJECTING TO THE SETTLEMENT

19. How do I tell the Court that I don't like the settlement?

If you're a Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it either in writing, or orally at the Final Settlement Approval and Fairness Hearing. If you properly present your objection, then the Court will consider your views. Any such written objection must be filed by mailing the objection to these three different places on or before [date].

Clerk of the Court
California Superior Court—
County of Alameda
1221 Oak Street, Dept. 16
Oakland, CA 94612

Jonathan M. Lebe
Zachary Gershman
Lebe Law, APLC
777 South Alameda St., 2d Floor
Los Angeles, CA 90021

Karen Butler Reisinger
Christopher J. Eckhart
Scopelitis, Garvin, Light,
Hanson & Feary, P.C.
10 W. Market St., Suite 1400
Indianapolis, IN 46204

The written objection must set forth: (i) your full name, current address, and telephone number; (ii) a statement of each objection asserted; (iii) a detailed description of the facts underlying each objection; (iv) if you are represented by counsel, a detailed description of the legal authorities and factual arguments supporting each objection; (v) a statement of whether you intend to appear at the hearing; (vi) a copy of any exhibits which you may offer during the hearing; and (vii) a reference to "*Brian Thomas Ruff, et al. v. Wilson Logistics, Inc.*, Case No. 22CV008614."

Any attorney you may hire for the purpose of making an objection must file his or her Entry of Appearance thirty (30) days before the Final Settlement Approval and Fairness Hearing, on or before [date]. The Entry of Appearance shall be filed with the Clerk of the Court with a copy served upon Class Counsel and Defense Counsel in accordance with the California Code of Civil Procedure.

Notwithstanding the above, any Class Member who does not otherwise exclude themselves from the Settlement may also appear at the Final Settlement Approval and Fairness Hearing and voice an oral objection. If written objections are filed, the parties may engage in discovery about the filed objections before the Final Settlement Approval and Fairness Hearing.

20. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself 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.

THE COURT'S FINAL SETTLEMENT APPROVAL AND FAIRNESS HEARING

21. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Settlement Approval and Fairness Hearing on [date] in the Oakland—Administration Building, 1221 Oak Street, Department 16, Oakland, California 94612. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Judge will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement.

22. Do I have to come to the hearing?

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

GETTING MORE INFORMATION

23. Are more details available?

This Notice summarizes the proposed settlement. More details are in the Joint Stipulation of Settlement and Release of Claims. You can get a copy of the Stipulation, and also be informed if the Final Settlement and Approval is continued to a later date by accessing the website maintained for this Action by **[Settlement Administrator]** at: **[Insert Website Address]**.

You can also get more information about the settlement by contacting Class Counsel, Jonathan M. Lebe and Zachary Gershman at:

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