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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ROBERTO RISO, individually, and on behalf of all
others similarly situated,

Plaintiff,

vs.

MOUNT SAINT MARY'S UNIVERSITY; and
DOES 1 through 10, inclusive,

Defendants.

Case No.: 21STCV41382

[Honorable David S. Cunningham,
Department 11]

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT
AGREEMENT**

Complaint Filed: November 10, 2021
Trial Date: Not Set

JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT AGREEMENT

This Joint Stipulation of Class and PAGA Action Settlement Agreement (“Settlement Agreement”) is made by and between plaintiff Roberto Rizo (“Plaintiff”) and defendant Mount Saint Mary’s University (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. **DEFINITIONS.**

- 1.1. “Action” means Plaintiff’s lawsuit alleging wage and hour violations against Defendant, captioned *Roberto Riso v. Mount Saint Mary’s University*, Case No. 21STCV41382, initiated on November 10, 2021, and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means APEX Class Action Administration, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all non-exempt employees of Defendant who worked in California in the period from November 7, 2020, through July 4, 2023.
- 1.5. “Class” means all non-exempt employees of Defendant who worked in California in the period from November 10, 2017, through July 4, 2023.
- 1.6. “Class Counsel” means Moon Law Group, PC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession, including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a

Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a Spanish translation, substantially in the form attached to this Agreement as **Exhibit A** and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from November 10, 2017, through July 4, 2023.

1.13. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Los Angeles.

1.16. “Defendant” means named Defendant Mount Saint Mary’s University.

1.17. “Defense Counsel” means LAGASSE BRANCH BELL + KINKEAD LLP.

1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$950,000.00, which is the total amount Defendant agrees to pay under the Settlement Agreement, except as provided in Paragraph 7 below. The Gross Settlement Amount will be used to pay the Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and Administration Expenses Payment.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the Judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code § 2699(i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the Individual PAGA Payments, LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement Agreement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period from November 7, 2020 through July 4, 2023.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.33. “PAGA Notice” means Plaintiff’s November 7, 2021 letter to Defendant and the LWDA providing written notice pursuant to Labor Code § 2699.3(a).
- 1.34. “PAGA Penalties” means \$60,000.00, which is the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$15,000.00) and the 75% to LWDA (\$45,000.00) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. “Plaintiff” means Roberto Rizo, the named plaintiff in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2, below.
- 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3.
- 1.41. “Released Parties” means: Defendant and all related companies, subsidiaries, owners, shareholders, founders and members (i.e., the Sisters of St. Joseph of Carondelet), agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, heirs, executors, administrators, and assigns, and all persons acting by, through, under, or in concert with any of them.

- 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. "Response Deadline" means sixty (60) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired.
- 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. "Workweek" means any week during which a Class Member worked for Defendant for at least one day during the Class Period.

2. **RECITALS.**

- 2.1. On November 10, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for Labor Code and Business and Professions Code violations. On March 3, 2022, Plaintiff filed a First Amended Complaint alleging an additional cause of action against Defendant for Civil Penalties under PAGA. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint."). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice on November 7, 2021.
- 2.3. On May 5, 2023, [the Parties participated in an all-day mediation presided over by Steve Serratore, which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, in addition to other data documents, and information, a sample of the time and corresponding payroll records of the Class and the employee handbook in effect during the Class Period. Plaintiff's

investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) (“*Dunk/Kullar*”).

2.5. The Court has not granted class certification, as the Parties reached this Agreement before Plaintiff moved for certification.

2.6. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS.**

3.1. **Gross Settlement Amount.** Except as otherwise provided by Paragraph 7 below, Defendant promises to pay \$950,000.00 and no more as the Gross Settlement Amount and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount or any payroll taxes prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. **Payments from the Gross Settlement Amount.** The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. **To Plaintiff:** A Class Representative Service Payment to the Class Representative of not more than \$10,000.00, in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member. Defendant will not oppose Plaintiff’s request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval

Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will report the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33 1/3%, which is currently estimated to be \$316,666.67 and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will report the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$11,000.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expense are less or the Court approves payment less than \$11,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for wages (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portion is not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$60,000.00 to be paid from the Gross Settlement Amount, with 75% (\$45,000.00) allocated to the LWDA PAGA Payment and 25% (\$15,000.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$15,000.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay

Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 410 Class Members who collectively worked a total of \$53,000 Workweeks, and 265 of Aggrieved Employees who worked a total of 11,000 of PAGA Pay Periods.

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

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes, by transmitting the funds to the Administrator no later than fourteen (14) days after the Effective Date.

1 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant
2 funds the Gross Settlement Amount, the Administrator will mail checks for the Individual
3 Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Administration
4 Expenses Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses
5 Payment, and Class Representative Service Payment. Disbursement of the Class Counsel
6 Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative
7 Service Payment shall not precede disbursement of the Individual Class Payments and
8 Individual PAGA Payments.

9 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
10 Individual PAGA Payments and send them to the Class Members via First Class
11 U.S. Mail, postage prepaid. The face of each check shall prominently state the
12 date (not less than 180 days after the date of mailing) when the check will be
13 voided. The Administrator will cancel all checks not cashed by the void date. The
14 Administrator will send checks for Individual Settlement Payments to all
15 Participating Class Members (including those for whom Class Notice was returned
16 undelivered). The Administrator will send checks for Individual PAGA Payments
17 to all Aggrieved Employees including Non-Participating Class Members who
18 qualify as Aggrieved Employees (including those for whom Class Notice was
19 returned undelivered). The Administrator may send Participating Class Members a
20 single check combining the Individual Class Payment and the Individual PAGA
21 Payment. Before mailing any checks, the Settlement Administrator must update
22 the recipients' mailing addresses using the National Change of Address Database.

23 4.4.2. The Administrator must conduct a Class Member Address Search for all other
24 Class Members whose checks are returned undelivered without USPS forwarding
25 address. Within seven (7) days of receiving a returned check the Administrator
26 must re-mail checks to the USPS forwarding address provided or to an address
27 ascertained through the Class Member Address Search. The Administrator need
28 not take further steps to deliver checks to Class Members whose re-mailed checks

are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

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

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

5.1. Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint (including without limitation claims for unpaid wages [including minimum, overtime, and regular rate wages], missed meal and rest periods, unreimbursed business expenses, waiting time penalties, payroll stub violations, and unfair business practices) and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.2, below ("Plaintiff's Release.") Plaintiff's Release does not extend to

1 any claims or actions to enforce this Agreement, or to any claims for vested benefits,
2 unemployment benefits, disability benefits, social security benefits, workers' compensation
3 benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff
4 acknowledges that Plaintiff may discover facts or law different from, or in addition to, the
5 facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that
6 Plaintiff's Release shall be and remain effective in all respects, notwithstanding such
7 different or additional facts or Plaintiff's discovery of them.

8 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code § 1542. For purposes of
9 Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,
10 rights, and benefits, if any, of Section 1542 of the California Civil Code, which
11 reads:

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

15 5.2 Release by Participating Class Members: All Participating Class Members, on behalf of
16 themselves and their respective former and present representatives, agents, attorneys, heirs,
17 administrators, successors, and assigns, release Released Parties from (i) all claims that
18 were alleged, or reasonably could have been alleged, based on the Class Period facts stated
19 in the Operative Complaint and ascertained in the course of the Action, including, any and
20 all claims involving any alleged (a) failure to pay all minimum wages; (b) failure to pay
21 overtime wages; (c) failure to provide meal periods, or premium pay for non-compliant
22 meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-
23 compliant rest periods; (e) failure to issue accurate, itemized wage statements and maintain
24 payroll records; (f) failure to pay all wages due upon separation of employment; (g) failure
25 to reimburse for necessary business expenses; (h) all claims under California Business &
26 Professions Code §§ 17200 for unfair business practices that could have been premised on
27 the facts, claims, causes of action or legal theories described above; (i) violation of or
28 claims under the following sections of the California Labor Code sections 201, 202, 203,

204, 206, 218.6, 226, 226.3, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802; and (j) violation of the California Industrial Wage Orders that could have been premised on the facts, claims, causes of action or legal theories described above, as well as any potential penalties, interest or attorneys' fees associated with all of such causes of action under California law. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice and ascertained in the course of the Action.

6. SETTLEMENT ADMINISTRATION.

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

6.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

6.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation §

1 468B-1.

2 6.4. Notice to Class Members.

3 6.4.1. No later than three (3) business days after receipt of the Class Data, the
4 Administrator shall notify Class Counsel that the list has been received and state
5 the number of Class Members, PAGA Members, Workweeks, and Pay Periods in
6 the Class Data.

7 6.4.2. Using best efforts to perform as soon as possible, and in no event later than
8 fourteen (14) days after receiving the Class Data, the Administrator will send to all
9 Class Members identified in the Class Data, via first-class United States Postal
10 Service (“USPS”) mail, the Class Notice, with Spanish translation, substantially in
11 the form attached to this Agreement as **Exhibit A**. The first page of the Class
12 Notice shall prominently estimate the dollar amounts of any Individual Class
13 Payment and/or Individual PAGA Payment payable to the Class Member, and the
14 number of Workweeks and PAGA Pay Periods used to calculate these amounts.
15 Before mailing Class Notices, the Administrator shall update Class Member
16 addresses using the National Change of Address database.

17 6.4.3. Not later than three (3) business days after its receipt of any Class Notice returned
18 by the USPS as undelivered, the Administrator shall re-mail the Class Notice using
19 any forwarding address provided by USPS. If USPS does not provide a forwarding
20 address, the Administrator shall conduct a Class Member Address Search, and re-
21 mail the Class Notice to the most current address obtained. The Administrator has
22 no obligation to make further attempts to locate or send Class Notice to Class
23 Members whose Class Notice is returned by USPS a second time.

24 6.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks
25 and/or Pay Periods, and Requests for Exclusion will be extended an additional
26 fourteen (14) days beyond the sixty (60) days otherwise provided in the Class
27 Notice for all Class Members whose notice is re-mailed. The Administrator will
28 inform the Class Member of the extended deadline with the re-mailed Class

1 Notice.

2 6.4.5. If the Administrator, Defendant, Defense Counsel, or Class Counsel is contacted
3 by or otherwise discovers any persons who believe they should have been included
4 in the Class Data and should have received Class Notice, the Parties will
5 expeditiously meet and confer in person or by telephone, and in good faith, in an
6 effort to agree on whether to include them as Class Members. If the Parties agree,
7 such persons will be Class Members entitled to the same rights as other Class
8 Members, and the Administrator will send, via email or overnight delivery, a Class
9 Notice requiring them to exercise options under this Agreement not later than
10 fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class
11 Notice, whichever are later.

12 6.5. Requests for Exclusion (Opt-Outs).

13 6.5.1. Class Members who wish to exclude themselves from the Class Settlement must
14 send the Administrator, by fax, email, or mail, a signed written Request for
15 Exclusion not later than sixty (60) days after the Administrator mails the Class
16 Notice (plus an additional [14] days for Class Members whose Class Notice is re-
17 mailed). A Request for Exclusion is a letter from a Class Member or his/her
18 representative that reasonably communicates the Class Member's election to be
19 excluded from the Settlement and includes the Class Member's name, address and
20 email address or telephone number. To be valid, a Request for Exclusion must be
21 timely faxed, emailed, or postmarked by the Response Deadline.

22 6.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
23 fails to contain all the information specified in the Class Notice. The Administrator
24 shall accept any Request for Exclusion as valid if the Administrator can reasonably
25 ascertain the identity of the person as a Class Member and the Class Member's
26 desire to be excluded. The Administrator's determination shall be final and not
27 appealable or otherwise susceptible to challenge. If the Administrator has reason to
28 question the authenticity of a Request for Exclusion, the Administrator may

1 demand additional proof of the Class Member's identity. The Administrator's
2 determination of authenticity shall be final and not appealable or otherwise
3 susceptible to challenge.

4 6.5.3. Every Class Member who does not submit a timely and valid Request for
5 Exclusion is deemed to be a Participating Class Member under this Agreement,
6 entitled to all benefits and bound by all terms and conditions of the Settlement,
7 including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3
8 of this Agreement, regardless of whether the Participating Class Member actually
9 receives the Class Notice or objects to the Settlement.

10 6.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
11 Non-Participating Class Member and shall not receive an Individual Class
12 Payment or have the right to object to the class action components of the
13 Settlement. Because future PAGA claims are subject to claim preclusion upon
14 entry of the Judgment, Non-Participating Class Members who are Aggrieved
15 Employees are deemed to release the claims identified in Paragraph 5.3 of this
16 Agreement and are eligible for an Individual PAGA Payment.

17 6.6. Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days
18 after the Administrator mails the Class Notice (plus an additional fourteen (14) days for
19 Class Members whose Class Notice is re-mailed) to challenge the number of Class
20 Workweeks and PAGA Pay Periods allocated to the Class Member in the Class Notice.
21 The Class Member may challenge the allocation by communicating with the Administrator
22 via fax, email or mail. The Administrator must encourage the challenging Class Member
23 to submit supporting documentation. In the absence of any contrary documentation, the
24 Administrator is entitled to presume that the Workweeks contained in the Class Notice are
25 correct so long as they are consistent with the Class Data. The Administrator's
26 determination of each Class Member's allocation of Workweeks and/or Pay Periods shall
27 be final and not appealable or otherwise susceptible to challenge. The Administrator shall
28 promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods

1 to Defense Counsel and Class Counsel and the Administrator's determination the
2 challenges.

3 6.7. Objections to Settlement.

4 6.7.1. Only Participating Class Members may object to the class action components of
5 the Settlement and/or this Agreement, including contesting the fairness of the
6 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
7 Counsel Litigation Expenses Payment and/or Class Representative Service
8 Payment.

9 6.7.2. Participating Class Members may send written objections to the Administrator, by
10 fax, email, or mail. In the alternative, Participating Class Members may appear in
11 Court (or hire an attorney to appear in Court) to present verbal objections at the
12 Final Approval Hearing. A Participating Class Member who elects to send a
13 written objection to the Administrator must do so not later than sixty (60) days
14 after the Administrator's mailing of the Class Notice (plus an additional fourteen
15 (14) days for Class Members whose Class Notice was re-mailed).

16 6.7.3. Non-Participating Class Members have no right to object to any of the class action
17 components of the Settlement.

18 6.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
19 performed or observed by the Administrator contained in this Agreement or otherwise.

20 6.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish
21 and maintain and use an internet website to post information of interest to Class
22 Members including the date, time and location for the Final Approval Hearing and
23 copies of the Settlement Agreement, Motion for Preliminary Approval, the
24 Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion
25 for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and
26 Class Representative Service Payment, the Final Approval and the Judgment. The
27 Administrator will also maintain and monitor an email address and a toll-free
28 telephone number to receive Class Member calls, faxes and emails.

- 1 6.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
2 promptly review on a rolling basis Requests for Exclusion to ascertain their
3 validity. Not later than five (5) days after the expiration of the deadline for
4 submitting Requests for Exclusion, the Administrator shall email a list to Class
5 Counsel and Defense Counsel containing (a) the names and other identifying
6 information of Class Members who have timely submitted valid Requests for
7 Exclusion (“Exclusion List”); (b) the names and other identifying information of
8 Class Members who have submitted invalid Requests for Exclusion; (c) copies of
9 all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 10 6.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
11 reports to Class Counsel and Defense Counsel that, among other things, tally the
12 number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,
13 Requests for Exclusion (whether valid or invalid) received, objections received,
14 challenges to Workweeks and/or Pay Periods received and/or resolved, and checks
15 mailed for Individual Class Payments and Individual PAGA Payments (“Weekly
16 Report”). The Weekly Reports must include provide the Administrator’s
17 assessment of the validity of Requests for Exclusion and attach copies of all
18 Requests for Exclusion and objections received.
- 19 6.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
20 address and make final decisions consistent with the terms of this Agreement on all
21 Class Member challenges over the calculation of Workweeks and/or Pay Periods.
22 The Administrator’s decision shall be final and not appealable or otherwise
23 susceptible to challenge.
- 24 6.8.5. Administrator’s Declaration. Not later than fourteen (14) days before the date by
25 which Plaintiff is required to file the Motion for Final Approval of the Settlement,
26 the Administrator will provide to Class Counsel and Defense Counsel, a signed
27 declaration suitable for filing in Court attesting to its due diligence and compliance
28 with all of its obligations under this Agreement, including, but not limited to, its

mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

7. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 410 Class Members and 53,000 Total Workweeks during the Class period and (2) there were 265 Aggrieved Employees who worked 11,000 Pay Periods during the PAGA Period. In the event of an increase in Workweeks of more than 10% from original estimate of 53,000, i.e., if the number of Workweeks is 58,301 or more, the Gross Settlement Amount shall be increased by the percentage that the actual number of workweeks exceeds 58,300.

8. DEFENDANT'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement within thirty (30) days after expiration of the Response Deadline. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will

1 remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant
2 must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the
3 Administrator sends the final Exclusion List to Defense Counsel. Late elections will have no effect.

4 **9. MOTION FOR FINAL APPROVAL.**

5 Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will
6 file in Court, a motion for final approval of the Settlement that includes a request for approval of the
7 PAGA settlement under Labor Code § 2699(l), a Proposed Final Approval Order and Judgment
8 (collectively “Motion for Final Approval”). Class Counsel and Defense Counsel will expeditiously meet
9 and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the
10 Motion for Final Approval.

11 9.1. Response to Objections. Each Party retains the right to respond to any objection raised by
12 a Participating Class Member, including the right to file responsive documents in Court no
13 later than [five] court days prior to the Final Approval Hearing, or as otherwise ordered or
14 accepted by the Court.

15 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
16 Approval on any material change to the Settlement (including, but not limited to, the scope
17 of release to be granted by Class Members), the Parties will expeditiously work together in
18 good faith to address the Court’s concerns by revising the Agreement as necessary to
19 obtain Final Approval. The Court’s decision to award less than the amounts requested for
20 the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
21 Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute
22 a material modification to the Agreement within the meaning of this paragraph.

23 9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
24 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
25 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
26 administration matters, and (iii) addressing such post-Judgment matters as are permitted by
27 law.

28 9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and

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

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

10. **AMENDED JUDGMENT.**

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

11. **ADDITIONAL PROVISIONS.**

11.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed

claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to

1 respond only that “the matter was resolved,” or words to that effect. This paragraph does
2 not restrict Class Counsel’s communications with Class Members in accordance with Class
3 Counsel’s ethical obligations owed to Class Members.

4 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
5 employees will not solicit any Class Member to opt out of or object to the Settlement, or
6 appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
7 Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s
8 ethical obligations owed to Class Members.

9 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
10 together with its attached exhibits shall constitute the entire agreement between the Parties
11 relating to the Settlement, superseding any and all oral representations, warranties,
12 covenants, or inducements made to or by any Party.

13 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
14 represent that they are authorized by Plaintiff and Defendant, respectively, to take all
15 appropriate action required or permitted to be taken by such Parties pursuant to this
16 Agreement to effectuate its terms, and to execute any other documents reasonably required
17 to effectuate the terms of this Agreement including any amendments to this Agreement.

18 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
19 best efforts, in good faith, to implement the Settlement by, among other things, modifying
20 the Settlement Agreement, submitting supplemental evidence and supplementing points
21 and authorities as requested by the Court. In the event the Parties are unable to agree upon
22 the form or content of any document necessary to implement the Settlement, or on any
23 modification of the Agreement that may become necessary to implement the Settlement,
24 the Parties will seek the assistance of a mediator and/or the Court for resolution.

25 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
26 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
27 encumber to any person or entity and portion of any liability, claim, demand, action, cause
28 of action, or right released and discharged by the Party in this Settlement.

- 1 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are
2 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be
3 relied upon as such within the meaning of United States Treasury Department Circular 230
4 (31 CFR Part 10, as amended) or otherwise.
- 5 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
6 modified, changed, or waived only by an express written instrument signed by all Parties
7 or their representatives, and approved by the Court.
- 8 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
9 benefit of, the successors of each of the Parties.
- 10 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
11 governed by and interpreted according to the internal laws of the state of California,
12 without regard to conflict of law principles.
- 13 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
14 this Agreement. This Agreement will not be construed against any Party on the basis that
15 the Party was the drafter or participated in the drafting.
- 16 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
17 during Action and in this Agreement relating to the confidentiality of information shall
18 survive the execution of this Agreement.
- 19 11.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to
20 Evidence Code § 1152, and all copies and summaries of the Class Data provided to Class
21 Counsel by Defendant in connection with the mediation, other settlement negotiations, or
22 in connection with the Settlement, may be used only with respect to this Settlement, and no
23 other purpose, and may not be used in any way that violates any existing contractual
24 agreement, statute, or rule of court. Not later than ninety (90) days after the date when the
25 Court discharges the Administrator's obligation to provide a Declaration confirming the
26 final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic
27 versions of Class Data received from Defendant unless, prior to the Court's discharge of
28 the Administrator's obligation, Defendant makes a written request to Class Counsel for the

return, rather than the destructions, of Class Data.

11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

11.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

MOON LAW GROUP, PC
Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
1055 West Seventh Street, Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128

To Defendant:

LAGASSE BRANCH BELL + KINKEAD LLP
Jennifer S. Branch
Heather N. Stone
4365 Executive Drive, Suite 950
San Diego, California 92121
Telephone: (858) 345-2268

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

11.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the

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

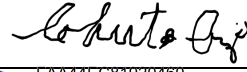
Plaintiff & Class Representative:

8/16/2023
Dated: August __, 2023

By: _____

Plaintiff, Roberto Rizo

DocuSigned by:

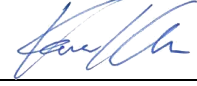


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Plaintiff's Counsel:Dated: August 16, 2023

MOON LAW GROUP, PC

By: _____


Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorneys for Plaintiff, Roberto Rizo
Defendant:

Dated: August 16, 2023

MOUNT SAINT MARY'S UNIVERSITY

By: _____

Andrew Loccisano, Interim Vice President of
Administration & Finance**Defendant's Counsel:**

Dated: August 16, 2023

LAGASSE BRANCH BELL + KINKEAD LLP

By: _____


Jennifer S. Branch
Heather N. Stone
Attorneys for Defendant,
Mount Saint Mary's University

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

Plaintiff & Class Representative:

Dated: August __, 2023

By: _____
Plaintiff, Roberto Rizo

Plaintiff's Counsel:

Dated: August __, 2023

MOON LAW GROUP, PC

By: _____
Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorneys for Plaintiff, Roberto Rizo

Defendant:

Dated: August 16, 2023

MOUNT SAINT MARY'S UNIVERSITY

By:  _____
Andrew Loccisano, Interim Vice President of
Administration & Finance

Defendant's Counsel:

Dated: August 16, 2023

LAGASSE BRANCH BELL + KINKEAD LLP

By:  _____
Jennifer S. Branch
Heather N. Stone
Attorneys for Defendant,
Mount Saint Mary's University