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Attorneys for Plaintiff JAIME GONZALEZ,
on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

JAIME GONZALEZ, individually and on behalf of himself and all others similarly situated,

Plaintiff,

v.

PROBUILD COMPANY, LLC, a Delaware limited liability company, doing business as DIXIELINE LUMBER & HOME CENTERS; BUILDERS FIRSTSOURCE, INC., entity type unknown; and DOES 1-50, inclusive,

Defendants.

Case No. CVRI2105278

Assigned for All Purposes To:
Hon. Harold W. Hopp, Dept. 1

DECLARATION OF JAMES R. HAWKINS IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

Date: December 13, 2024
Time: 8:30 a.m.
Dept.: 1

Complaint filed: November 19, 2021
Trial Date: None set

I, James R. Hawkins, declare as follows:

1. I am an attorney admitted and licensed to practice law in the state of California. I am the managing shareholder of James Hawkins APLC, counsel of record for Plaintiff Jaime Gonzalez ("Plaintiff") in this action. I am thoroughly familiar with, and have personal knowledge of, the facts set forth herein, except if otherwise stated. If called as a witness, I could and would competently testify to the information set forth below.

2. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion for Preliminary Approval" or "Motion"), which is filed concurrently herewith.

3. A true and correct copy of the Class Action and PAGA Settlement Agreement ("Settlement" or "Settlement Agreement") is attached hereto as **Exhibit 1** and is incorporated herein by reference.[1] **The form and content of the Settlement Agreement has been approved by all Parties but has not been signed by Defendants at the time of this filing. Accordingly, the Parties will file a copy of the fully executed Settlement Agreement prior to the hearing date.**

4. A true and correct copy of the proposed Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") is attached as **Exhibit A** to the Settlement Agreement and is incorporated herein by reference.

5. As required by the Private Attorneys General Act of 2004 ("PAGA"), on November 25, 2024 my office submitted the proposed Settlement Agreement to the California Labor and Workforce Development Agency ("LWDA"). A true and correct copy of the confirmation of submission of the Settlement Agreement to the LWDA is attached hereto as **Exhibit 2** and is incorporated herein by reference.

Case Background and Procedural History

6. Plaintiff was employed by Defendants ProBuild Company, LLC as a Material Handler and Assembler at the Dixieline Lumber at store located at 2625 Durahart Street, Riverside, California from September 21, 2020 through November 18, 2020. At all times, he was classified as a nonexempt employee

[1] To the extent the terms used in this declaration are defined in the Settlement Agreement, the defined terms contained herein shall have the same meaning as set forth in the Settlement Agreement.

and was paid on an hourly basis. Plaintiff contends that over the course of his employment, Defendants failed to pay Plaintiff and the Class Members minimum wages for all hours worked, failed to pay all overtime wages and meal period premiums at the correct rate due to a failure to incorporate non-discretionary bonuses into the regular rate of pay, failed to provide lawful meal periods on shifts greater than five hours, and second meal periods on shifts greater than 10 hours and 12 hours, failed to pay meal period premiums, failed to authorize and permit rest periods, failed to pay rest period premiums, knowingly and willingly failed to provide accurate, itemized wage statements, failed to timely pay wages due at separation from employment, failed to reimburse necessary business expenses, and failed to pay sick pay.

7. On November 18, 2021, Plaintiff filed a Class Complaint alleging causes of action for (1) violations of FCRA for failure to make required disclosures; (2) violations of FCRA for failure to obtain required authorization; (3) violations of ICRAA for failure to make required disclosures; (4) violations of ICRAA for failure to obtain required authorization; (5) failure to pay minimum wages; (6) failure to pay overtime owed; (7) failure to provide lawful meal periods; (8) failure to authorize and permit rest periods; (9) failure to timely pay wages during employment; (10) failure to timely pay wages owed upon separation from employment; (11) knowing and intentional failure to comply with itemized wage statement provisions; (12) violation of the unfair competition law. Plaintiff also notified the LWDA and Defendants of his intent to assert the rights granted to him under PAGA.

8. After 65 days had passed with no response from the LWDA, on January 24, 2022, after providing notice to the LWDA, Plaintiff filed a separate PAGA-only complaint asserting violations of the California Labor Code and applicable Industrial Welfare Commission ("IWC") Wage Order for: (1) failure to pay minimum wages; (2) failure to pay overtime owed; (3) failure to provide lawful meal periods; (4) failure to authorize and permit rest periods; (4) failure to timely pay wages due and payable during employment; (5) failure to timely pay wages owed upon separation; (6) knowing and intentional failure to comply with accurate itemized employee wage statement provisions; and (7) performing unlawful credit checks on employees.

9. On February 17, 2022, Defendants filed a notice of removal, removing Plaintiff's class action to the Central District of California (Case No. 5:22-CV-00315). On April 7, 2022, Plaintiff filed a

First Amended Complaint removing claims for failure to authorize and permit rest periods and failure to timely pay wages during employment, and added claims for payment of wages earned with a gift card and for failure to reimburse necessary expenses. On May 31, 2022, Plaintiff dismissed the background check claims. On August 1, 2022, Plaintiff filed a Second Amended Complaint removing the background check claims and the claims for paying wages earned with a gift card. The Parties stipulated to remand the case to this Court for purposes of settlement, and the case was ordered remanded on July 15, 2024.

10. On January 8, 2024, the Parties attended mediation, as discussed below, and achieved a resolution. In connection with the Settlement, the parties will submit a stipulation asking the Court to grant Plaintiff leave to file a Third Amended Class Action and PAGA Complaint, for settlement purposes, to effectively consolidate the class and PAGA claims.

Investigation and Discovery

11. My firm conducted a thorough investigation into the facts and legal claims raised by this action, as well as the applicable law related thereto. Prior to filing the initial complaint, my firm requested Plaintiff's employment file and spent several hours conferring with Plaintiff and reviewing his timekeeping and payroll records. Given what appeared to be a common course of conduct affecting nonexempt employees, my firm determined that Plaintiff's claims were well suited for class adjudication.

12. Plaintiff propounded both formal and informal discovery, including Special Interrogatories and Requests for Production of Documents, and noticed a deposition of Defendants' Person Most Knowledgeable, on October 17, 2022. In lieu of responding to formal discovery, the Parties agreed to mediation in order to avoid the expense, delay, and risk inherent with continued litigation.

13. In response to Plaintiff's informal discovery requests in preparation for mediation, Defendants provided hundreds of thousands of lines of pay and time records in Excel format which represented a 20% sampling of the Class time and pay records, as well as additional data points including the total number of current and former employees in the Class, the total number of workweeks at issue, the total number of current and former employees in the PAGA group, the total number of PAGA pay periods, and the average rate of pay for the Class. Defendants also provided applicable handbooks and other policies relevant to Plaintiff's claims.

14. Class Counsel reviewed the voluminous document production and performed a

comprehensive analysis of the timekeeping and payroll records. The firm retained Berger Consulting Group to perform data analysis on the records and to advise on Defendants' potential exposure.

15. Class Counsel also conducted a thorough investigation into the merits and legal basis of the claims asserted in the operative complaint. This included performing legal research with respect to the applicable law and the defenses raised by Defendants, in order to assess the relative strengths and weaknesses of the claims asserted and to identify an appropriate range of settlement figures.

16. In advance of mediation, Class Counsel prepared a comprehensive mediation brief that outlined the relevant factual and legal issues, contained a detailed analysis of the timekeeping and payroll records, and presented a complete breakdown of the liability exposure for Defendants if Plaintiff succeeded on each of his claims at trial.

17. I believe that the documents and information exchanged and analyzed by the parties in preparation for mediation, as well as the parties' discussions during mediation and subsequent negotiations, were sufficient for the parties to make an informed decision about a fair resolution of this action.

Mediation

18. On January 8, 2024, the parties attended a full-day private mediation with well-respected and highly experienced wage and hour mediator, Brandon McKelvey. During the mediation session, the parties engaged in good-faith, non-collusive negotiations wherein the parties exchanged additional information regarding Defendants' realistic exposure in this matter, discussed the relative strengths and weaknesses of Plaintiff's claims, considered the risks and delays of further litigation, the current state of the law as it related to Plaintiff's claims, and contemplated the difficulty Plaintiff may have in obtaining and maintaining class certification of each claim.

19. The Parties did not settle at mediation. However, following the issue of a mediator's proposal and additional assistance in negotiating term over the following months, the parties reach a settlement and executed a memorandum of understanding (MOU) memorializing the terms of the settlement on March 5, 2024.

20. Mr. McKelvey's role in mediating this case was extremely helpful in managing the parties' expectations and providing a useful and neutral analysis of the issues and risks to all parties. At all times,

the parties' negotiations were hard-fought and conducted at arm's-length between attorneys with substantial wage and hour class action experience, and the settlement is evidence of the parties' efforts to reach a mutually agreeable compromise.

21. In the months following the execution of the MOU, the parties continued to negotiate the final terms of the proposed settlement and prepare a long-form settlement agreement.

Evaluation of the Claims for Settlement Purposes

22. I believe the $2,500,000 settlement provides a real and substantial benefit to the Class considering the highly disputed nature of the claims, the risk of obtaining and maintaining class certification, and the likelihood that the Court would reduce the amount of any civil penalties awarded. Class Counsel's determination of the fair value of the settlement was based on a number of factors, including our investigation of the applicable law as it applied to the facts discovered, as well as Defendants' potential defenses. In my experience, the amount of the proposed settlement is well within line of the amounts received in other wage and hour class actions.

23. Throughout the course of this litigation, Defendants have consistently denied all of the material allegations in the complaint; that they have violated any applicable laws; that they are liable for damages, restitution, penalties, interest, attorneys' fees, costs, or for any other remedy sought by Plaintiff; and (d) that class certification and representative treatment are appropriate as to the claims asserted in the complaint. Defendants contend that their policies, practices, and procedures complied with California law.

24. The Settlement Agreement reflects the parties' good faith compromise of the claims raised in this action, based upon their assessment of the mutual risks and costs of further litigation.

25. The maximum value of Plaintiff's claims, assuming that every claim is certified for class treatment and complete and total success on every disputed point, has been calculated by Class Counsel to be approximately $62,297,366.58, inclusive of PAGA. The calculation of damages in this matter is based on extensive formal and informal discovery and a thorough understanding of the strengths and weaknesses of each claim. In calculating Defendants' maximum potential exposure in this matter, Class Counsel assumed that class certification would be granted, that Plaintiff would prevail on all claims at trial, and that Plaintiff would recover the full amount of damages and civil penalties sought. This calculation also assumes a PAGA penalty of $100 per PAGA pay period.

26. Defendants' records indicate that there are more than 5,000 current and former employees in the class. As such, for purposes of settlement, Class Counsel assumes a significant risk that not all claims would be appropriate for class certification, a risk of not prevailing on the merits of claims that are certifiable, and significant risk that any potential PAGA penalties to be reduced by the Court. Class Counsel assumed a 75 percent discount on the maximum liability faced by Defendants to account for these risks. Accordingly, Class Counsel believes a more realistic valuation of the claims in this case is $15,574,341.65. Thus, the $2,500,000 settlement achieved in this case represents approximately 16% of the maximum total liability faced by Defendants.

27. After deducting class counsel's fees and costs, administration costs, the Class Representative Enhancement Payment, and the PAGA Allocation, the Net Settlement Amount is estimated to be $1,441,500 . The Settlement results in a substantial benefit to all Class Members. The average payout to Class Members, assuming full participation, will be approximately $269.54 (i.e., the estimated $1,441,500 Net Settlement Amount divided by 5,348 Class Members). This is a reasonable recovery. If Plaintiff were to take this to trial, Defendants likely has several affirmative defenses that they would pursue, and if defeated at trial, would appeal. A lengthy appeal in this case would leave resolution uncertain for years. This creates a steep risk for Plaintiff and the Class, especially when compared with the certainty of recovery under the proposed settlement.

Class Claims

28. Plaintiff's claims for failure to pay minimum and overtime wages were premised on Defendants' failure to: (1) pay employees for pre and post shift work, (2) work performed during meal periods, and (3) travel required for attending training. If completely successful on their minimum wage and overtime wage claims, Plaintiff would be entitled to approximately $4,041,387.01 for unpaid wages, liquidated damages, and interest. This is based on an average overtime hourly rate of $28.82.

29. Plaintiff also brought claims for underpayment of overtime wages and meal period premiums due to failure to properly incorporate non-discretionary bonuses in the into the regular rate. This resulted in an underpayment of approximately $538,254.85.

30. Plaintiff's claim for meal period violations stems from Defendants' failure to provide uninterrupted, duty-free meal periods and/or a second meal period for shifts in excess of 10 hours. The

penalties recoverable under Labor Code section 226.7 are one additional hour of pay at the regular rate of compensation for each workday in which a violation occurs. If completely successful on their meal period claim, the total value, including interest, would be approximately $6,817,743.88. This is based on a violation rate of approximately 20% percent, as evidenced by timekeeping records.

31. Plaintiff's claim for rest period violations stems from Defendants' failure to provide an uninterrupted, duty-free rest period of at least 10 minutes for every four hours worked, or major fraction thereof. As with Plaintiff's meal period claim, the penalties recoverable under Labor Code section 226.7 are one additional hour of pay at the regular rate of compensation for each workday in which a violation occurs. Based on an estimated violation rate of 20 percent for all shifts over 3.5 hours, Plaintiff calculated the maximum value of this claim at approximately $6,817,743.88, including prejudgment interest.

32. Plaintiff's waiting time penalties claim is premised on the separation of employment without payment for all wages earned, including regular, minimum and overtime, as well as meal and rest premiums owed. Labor Code section 203 provides penalties of the wages of an employee for up to 30 days if an employer willfully fails to pay wages owed at the time of separation. Plaintiff has calculated waiting time penalties at $13,659,168.00. This assumes that each former employee was entitled to unpaid wages at the time of separation and would receive the maximum statutory penalties.

33. Plaintiff's wage statement claim is premised on Defendants' failure to record and accurately pay for all hours worked, which resulted in wage statements that inaccurately reflected the total number of hours worked and wages earned in the pay period. Further, Defendants' failure to pay Class Members an additional hour of pay for each workday in which the Class Member was not provided a compliant meal and/or rest period likewise resulted in wage statements that inaccurately reflected the total wages earned. For each pay period in which Defendants failed to provide compliant wage statements, Class Members are entitled to damages based on the number of pay periods in which a violation occurred, up to a cap of $4,000 per person. (Lab. Code § 226(e)(1).) If Plaintiff were completely successful on his wage statement claim, the total value of the claim would be approximately $14,450,900.00.

34. Plaintiff's claim for unreimbursed expenses under Labor Code section 2802 is primarily based on Defendants' policy and practice of requiring employees to report to multiple locations in one day but not reimburse for the mileage traveled, in addition to the aforementioned failure to pay minimum

wages for the travel time. Assuming approximately 10 miles per month traveled, and using the standard IRS mileage reimbursement rates for the years 2020 through 2023, if Plaintiff prevailed on this claim and were awarded the full amount of damages sought plus pre-judgment interest, the class would be entitled to $422,568.96 in unreimbursed expenses.

PAGA Penalties

35. Plaintiff's estimated maximum amount of civil penalties recoverable under PAGA, assuming $100 per PAGA pay period and 155,496 PAGA pay periods, is $15,549,600.00. As with the other claims referenced above, Plaintiff's estimate of civil penalties was based on an "everything goes right" scenario and was vulnerable to being substantially devalued. Furthermore, as with the imposition of any penalties under PAGA, there was a very real risk that the Court may further reduce Plaintiff's estimated amount under Labor Code § 2699(e)(2), and it was likely that, given the attenuated nature of some of the claims, the Court would, in its discretion, limit the award as unjust, arbitrary, and oppressive, or confiscatory. (*Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213.) Therefore, the settlement of the claim for penalties under PAGA in the amount of $125,000 is reasonable under the circumstances here because the parties negotiated a good faith amount for PAGA penalties, which was not the result of self-interest at the expense of Class Members. (See, e.g., *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 528-529 [trial court only awarded 0.21%, or $150,000, of the maximum penalty because imposing the maximum penalty would be "unjust, arbitrary, and oppressive"].) It also ensures that a larger portion of the overall settlement will go to Class Members while still serving the primary law enforcement objectives of PAGA.

36. While the $2,500,000 Gross Settlement Amount represents a significant discount on Plaintiff's estimate of Defendants' maximum potential exposure, this reduction represents a reasonable compromise considering the substantial risks that Plaintiff and the Class faced in this action. This is particularly true given the fact that Defendants has legitimate defenses to the merits of the claims.

37. In evaluating the proposed settlement, Plaintiff and Class Counsel considered the likelihood of obtaining and maintaining class certification of Plaintiff's class claims through trial and being awarded 100 percent of the damages and penalties claimed, as well as the risk that the Court may reverse a favorable ruling on the merits on appeal. These risks are obviated by the proposed settlement.

Additionally, continued litigation would likely be extremely expensive and time consuming, reducing and substantially delaying any recovery by the Class. In contrast, the proposed settlement will guarantee that the Class will receive timely relief and avoid the risk of an unfavorable judgment.

38. Based on my experience litigating almost exclusively wage and hour claims for nearly 20 years, I believe the Gross Settlement Amount is a fair and reasonable compromise based on the strengths and weaknesses of the claims, the avoidance of further risk, and the avoidance of the time and expense of continued litigation. I believe the information obtained and exchanged between the parties was sufficient for the parties to make an informed decision about the resolution of this case at mediation.

Settlement Administration and Notice Procedure

39. The parties agree that subject to the Court's approval, Apex Class Action LLC ("Apex")will act as the third-party Settlement Administrator in this matter. (Settlement, § 7.1) My office has obtained a "not to exceed" bid from Apex of $31,000. This bid represents a reasonable amount based on the size of the Class and the work required.

40. All of the awarded Administration Expenses will be paid from the Gross Settlement Amount upon completion of the duties required to be performed by the Settlement Administrator under the terms of the Settlement, or as otherwise required by the Court. (Settlement, § 3.2.3.) Should the Court approve less than the amount requested in Administration Expenses, the difference shall be included in the Net Settlement Amount.

41. The proposed Notice of Proposed Class Action and PAGA Settlement is accurate and informative. It summarizes the lawsuit, including the contentions and denials of the parties and the proceedings to date, in plain language and in an informative and coherent manner. (Settlement, Ex. A.) The Class Notice also fully informs Class Members of the terms and conditions of the Settlement, of its effect on their rights, of their options as Class Members (i.e., to object, opt out, and/or do nothing), and of the consequences of exercising those options. The Class Notice also outlines the procedure and deadlines for opting out of the settlement, for submitting objections to the settlement, and how to receive a Settlement Payment and PAGA Payment.

42. The Class Notice further states the amount of the proposed Class Representative Enhancement Payment to be paid to Plaintiff; states the amount of Class Counsel's request for attorneys'

fees; states the maximum amount that Class Counsel may be awarded as reimbursement for litigation costs; states the maximum amount to be paid to the Settlement Administrator; states that amount to be allocated to the PAGA Settlement; states the date, time, and place of the Final Approval Hearing; and explains how Class Members can obtain additional information.

43. Furthermore, the Class Notice also makes clear that the settlement does not constitute an admission of liability by Defendants, that the Court has not ruled on the merits of the action, and that the final settlement approval decision has yet to be made.

44. The proposed notice plan, which calls for first-class mailed notice to all Class Members, as well as in-depth skip tracing upon return of all undeliverable mailing, is consistent with class notices approved by state and federal courts, and under the circumstances here, is the best notice practicable and the method most likely to reach the greatest number of Class Members.

Class Counsel's View of the Settlement

45. While the Gross Settlement Amount represents a significant discount on the overall exposure to Defendants, assuming Plaintiff prevails on all issues pertinent to class certification, liability on all claims, and proven damages as estimated, this reduction in compromise is extremely reasonable considering the substantial risks Plaintiff and the Class face on class certification, liability, damages, and manageability.

46. Absent a settlement, the parties would likely spend considerable time, effort, and money on additional discovery and depositions, including substantial meet and confer and motion work, preparing Plaintiff's motion for class certification and—if class certification were granted—opposing Defendants' likely motion to decertify the class, in addition to likely filing cross-motions for summary judgment. Indeed, even if Plaintiff could successfully prove all of his claims at trial and recover the full amount of damages as estimated, it is likely that Defendants would appeal any judgment in Plaintiff's favor, potentially drawing out the litigation for many more years with no guarantee of recovery by Plaintiff or the Class.

47. As a result, the parties would incur considerably more attorneys' fees and costs through trial. Thus, in considering the adequacy and fairness of the proposed Settlement, I acknowledged the cost and delay of continued proceedings necessary to prosecute the action through trial and appeal and carefully

considered the uncertain outcome and the risks associated with any litigation, particularly complex actions such as this. I am also mindful of the inherent problems of proof, and possible defenses to the claims asserted in the lawsuit. Although Plaintiff asserts that Defendants is liable to all Class Members for their unpaid wages, unreimbursed expenses, damages, interest, and penalties, none of these claims are certain. While Plaintiff believes that the case possesses substantial merit, the litigation cannot legitimately be characterized as being one without risk or one where Plaintiff would inevitably prevail at trial.

48. In the absence of a settlement, Plaintiff and the Class would not see any monetary recovery for years. Granting approval of the settlement, however, would guarantee payment of the Gross Settlement Amount of $2,500,000, which would streamline the litigation process and provide prompt payment to Class Members who decide to participate in the settlement. As demonstrated herein, the payments to Class Members are meaningful and provide the best resolution for this case considering the risks involved in continuing litigation, the delay, and the expenses the parties will incur, and the fact that this Court has not yet addressed the class certification, liability, and damages issues. Class Members will receive a pro rata portion of the Settlement, such that those who worked a greater number of pay periods during the Class Period, and who presumably would have experienced more Labor Code violations, will receive a larger portion of the Settlement.

49. Throughout this litigation, Defendants was represented by experienced counsel from Ballard Rosenberg Golper & Savitt LLP, who mounted a strong defense against the claims asserted herein. Throughout this litigation, Defendants has denied any liability for the claims alleged, contending among other things, that it followed all applicable law with respect to Plaintiff's and Class Members' employment, that Class Members were timely paid all wages owed, were provided compliant meal and rest periods, and were indemnified for all necessary business expenses.

50. In reaching the proposed Settlement, Class Counsel carefully considered the strength of the case versus the amount offered in settlement; the risk, expense, and complexity and likely duration of further litigation and maintaining class certification through trial; the present state of the law as it applies to wage-and-hour class actions and PAGA actions; and the burdens of proof necessary to establish liability against Defendants.

51. As set forth below, Class Counsel is well qualified to evaluate the class claims and viability

of defenses in this action based on our combined experience in other similar cases. As such, I strongly support this Settlement and believe it provides the best resolution for this action.

The Class Representative Incentive Payment is Reasonable

52. The Settlement Agreement provides that Plaintiff can request, and Plaintiff does so request, a Class Representative Enhancement Payment in the amount of $10,000, which will be in addition to the Settlement Payments and PAGA Payments that they are entitled to receive as Class Members.

53. Plaintiff initiated this action by seeking legal assistance from my firm. He spent numerous hours assisting with the preparation of the LWDA letter, the complaint, and witness questionnaire; communicating with counsel; identifying potential witnesses; and providing all information and documents requested. Over the course of more than a year and a half, Plaintiff worked closely with Class Counsel to protect the best interests of the Class. his participation was an essential element that allowed my firm to reach the proposed Settlement on behalf of the Class.

54. Plaintiff also assumed the risk of an adverse judgment and the financial responsibility of such judgment by bringing and maintaining the action. By stepping forward as the class representative, he jeopardized the availability of prospective employment because his name is now associated with a lawsuit against his former employer.

55. Plaintiff has also agreed to a general release of his claims, which is an expansive release that was not required of any other Class Members.

56. I believe that the requested Class Representative Enhancement Payment in the amount of $10,000 for Plaintiff is fair and reasonable and is in line with awards granted in similar actions.

The Requested Attorneys' Fees and Litigation Costs are Reasonable

57. Class Counsel will request an attorneys' fee award in the amount of up to 35% of the Gross Settlement Amount (i.e., $875,000) and reimbursement of actual litigation costs in an amount not to exceed $17,500.

58. The fee is warranted and reasonable because of the substantial work and effort incurred to achieve the Settlement on behalf of the Class and the real and significant monetary relief obtained. This work includes, *inter alia*, preparing and filing a pre-litigation letter with the LWDA; preparing and filing the complaint and amended complaint; propounding extensive written discovery and engaging in

substantial meet and confer efforts; conducting lengthy interviews with Class Members; performing legal and factual research; engaging in extensive informal document and information exchange; preparing for and participating in mediation; and analyzing the time and payroll records for Plaintiff and other Class Members.

59. The fee request at final approval will be supported by a detailed explanation of the qualifications of each timekeeper, and their corresponding hourly rate, along with an explanation of the amount of time worked on the various tasks performed on behalf of Plaintiff and the Class. Similarly, the costs request will be supported at the time of final approval with an explanation of the amount and nature of the costs incurred.

60. Although case law supports fee awards as high as 50 percent on common settlement funds of less than $10 million, Class Counsel's request for attorneys' fees in the amount of $875,000, representing 35% of the Gross Settlement Amount, is both reasonable and fair in light of the time, money, and effort invested in this case to date.

61. My firm has committed and continues to commit significant financial and staffing resources to the representation of Class Members. This work ultimately resulted in the proposed Settlement, which provides significant benefits to Class Members. Moreover, my firm undertook this action on a contingency basis, thereby bearing all the costs of this very complex, risky, expensive, and time-consuming litigation.

62. In making a fee request in a class action case, I always analyze the factors that a court must consider in awarding fees. I believe that such circumstances exist here to justify the requested attorneys' fees award of $875,000, including: (a) the work involved in achieving an excellent result for the Class and bringing the action to an efficient conclusion; and (b) the associated risks to my firm in taking a matter on a contingent basis.

63. All costs incurred were necessary to the prosecution of this action, would normally have been billed to a client paying for my firm's services on a non-contingency basis, and are reasonable for a case such as this in which substantial discovery and investigation took place over the more than a year and a half since submission of the LWDA letter. Class Counsel's request for reimbursement of actual litigation expenses, which counsel anticipates will not exceed $17,500, is reasonable, and all costs were

necessarily incurred in pursuit of the Settlement.

64. In my opinion, the requested fee award takes into account the excellent result and the risk undertaken in bringing this case on a purely contingent basis, advancing all costs to date, and deferring payment for all the time that my firm has worked on this case, with no guarantee that any of the fees and costs incurred would ever be recovered.

65. I believe the fees and costs requested are fair, reasonable, and necessarily incurred in pursuit of the settlement. I believe the time spent working on this case by attorneys and paralegals at my firm reflect the reasonable and necessary amount of time to properly represent the interests of the Class.

Provisional Certification of the Class is Appropriate

66. For the purposes of settlement only, Plaintiff contends, and Defendants does not dispute, that provisional certification of the Class is appropriate.

67. Documents and information exchanged during the litigation reflect a class size of approximately 5,348 Class Members. The class definition is precise, objective, and presently ascertainable, and it makes abundantly clear who is a Class Member. In addition, Class Members can be identified easily by way of Defendants' personnel records, which include Class Members' full names, mailing addresses, telephone numbers, and dates of employment during the applicable time periods.

68. During discovery and the informal exchange of information, Defendants produced Plaintiff's personnel, timekeeping, and payroll records, as well as policies related to meal and rest periods, compensation, expense reimbursement, the total number of workweeks and pay periods, average rates of pay, the names and contact information for Class Members, and the timekeeping and payroll records for a 20 percent sample of Class Members.

69. After reviewing the documents and data produced, I believe common issues of fact and law predominate as to each of the claims alleged by Plaintiff on behalf of Class Members, because the legality of Defendants' policies and practices including, but not limited to, Plaintiff's allegations that Class Members were not timely paid all wages owed, were not provided compliant meal and rest periods, and were not reimbursed for necessary business expenses, are common questions applicable to all Class Members.

70. At all times during his employment with Defendants, Plaintiff performed the same or similar duties as other Class Members and contends that he is similarly situated with other Class Members. Plaintiff was subject to the same employee handbooks, policies, and procedures during the relevant time period, which he contends were similarly applicable to all other Class Members. Therefore, the claims asserted are typical of the Class he seeks to represent. Moreover, the issues central to this litigation, which Plaintiff alleges on behalf of herself and all other similarly situated persons, include, without limitation, all of the following:

a. Whether Defendants failed to timely pay all minimum and overtime wages owed to Class Members;

b. Whether Defendants included non-discretionary bonuses when calculating Class Members' regular rate of pay for purposes of paying overtime and meal period premiums;

c. Whether Defendants failed to provide Class Members with compliant meal periods;

d. Whether Defendants failed to authorize and permit Class Members to take uninterrupted, off-duty rest periods;

e. Whether Defendants failed to timely pay all wages due upon separation of employment or pay the applicable waiting time penalties;

f. Whether Defendants failed to properly reimburse Class Members for the expenses they incurred in the discharge of their duties; and

g. Whether Defendants failed to provide accurate wage statements to Class Members.

71. Plaintiff has no conflict of interest with the Class and has, along with his counsel, worked toward a positive resolution of this action, demonstrating his interest in prosecuting this action and dedication to obtaining the best possible recovery for the Class. In addition, Plaintiff's interests are co-extensive with those of the Class, and he seeks relief identical to that sought by every other Class Member. Since all Class Members need to demonstrate the same elements to recover on their claims, the interests of Class Members are sufficiently aligned with those of Plaintiff, and Plaintiff can be expected to pursue the interests of all Class Members adequately. In addition, both Plaintiff retained counsel with extensive experience in prosecuting complex wage and hour class actions who have worked diligently to obtain the

proposed Settlement for the Class. I believe that this case could not have continued without Plaintiff's efforts and desire to obtain this positive result for the Class. There are no known conflicts between Plaintiff, Class Counsel, and Class Members.

72. By consolidating more than 5,000 potential individual actions into a single proceeding, this Court's use of the class action device enables it to manage this litigation in a manner that promotes a better use of the time, effort, and expense for the litigants and the judicial system. Absent class treatment, similarly-situated employees with small, but nevertheless potentially meritorious claims for damages would, as a practical matter, have no means of redress because of the time, effort, and expense required to prosecute individual actions. Accordingly, I believe class treatment is superior to other available methods for the fair and efficient adjudication of the controversy.

Class Counsel's Litigation Experience

73. I am an attorney at law licensed to practice before the Courts of the State of California and before this Court.

74. In 1993, I graduated from the University of California, Los Angeles with a Bachelor of Arts Degree. Following graduation, I attended Whittier Law School. In 1996, while a full-time law student, I was also a full-time Judicial Extern for the Honorable Consuelo B. Marshall, United States District Court, Central District. After approximately five months of service for Judge Marshall, I became a full-time extern for the United States Attorney's Office, Central District of California. My externship lasted for approximately five months. Thereafter, in 1997, I graduated from Whittier Law School. The same year, I was admitted to practice law in the State of California.

75. From 1997-2007, I was a named partner at Hawkins & Sofonio, a law firm based out of Irvine, California. At Hawkins & Sofonio, I pioneered the employment department litigating Plaintiffs related employment issues such as: Wrongful Termination, Age Discrimination, Disability, Wage and Hour and Sexual Harassment claims. Through the success and experience I obtained litigating employment related matters, I commenced the Wage and Hour division of our employment department in 2002. Since then, I have spent the vast majority of my practice litigating wage and hour class actions.

76. In 2007, I incorporated my wage and hour class action practice as James Hawkins APLC. Since its inception, this law firm has been exclusively involved in class action and complex litigation. In

2009, I opened an additional office in Miami, Florida, prosecuting wage and hour class actions. I have been lead or co-lead counsel in all of the cases listed below.

77. I have a great deal of experience in wage and hour class action litigation. I have been certified and approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others before this Court and others. Although not an all-inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this Action:

a. *Mojica v. Compass Group, Inc., et. al.* USDC Central District, Case No. 8:13-cv-01754. Wage and Hour Class Action case seeking past wages for meal and rest break violations for production workers in the State of California. Plaintiffs' Counsel preliminarily appointed as Class Counsel. Case settled. Final approval granted, and funds fully disbursed.

b. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-04554. Wage and Hour Class Action case seeking past wages for "off the clock", overtime and meal and rest break violations for production workers in the State of California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

c. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs' counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

d. *Morgan v. Aramark Campus, LLC,* USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

e. *West v Iron Mountain Information Management, Inc, et. al.;* Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of

California. Stipulation for "binding arbitration." Arbitration Award for Plaintiffs Class. Arbitration Award confirmed. Plaintiffs' counsel lead trial counsel and class counsel.

f. *Gonzalez v. Superior Industries International, Inc.*, et al., Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

g. *Acosta v. Fleetwood Travel Trailers of California, Inc.,* et al., Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Walker v. Sharkeez*, et al., Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted and funds fully distributed.

i. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

j. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by Defendants in the State of California. Plaintiffs' counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

k. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal

and rest break violations for housekeepers employed by Defendants in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

l. *Ruiz, et al. v. Unisourse Worldwide, Inc., et al.,* USDC, CENTRAL DISTRICT, Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest period violations for non-exempt employees employed by Defendants in the state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiffs has petitioned the Court for Lead Counsel.

m. *Herrador v. Culligan International Company, et al.,* USDC, CENTRAL DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for field and branch employees of Defendants in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled and awaiting Final Approval.

n. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No. 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of Defendants in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

o. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No. 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by Defendants in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

p. *Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.,* Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by Defendants in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. *McMurray v. Dave and Busters, Inc., et al.*, Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by Defendants in the State of California.

Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. *Osuna v. DFG Restaurants, Inc., et al.*, Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendants, DBA Carl's Jrs. in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. *Burns v. Gymboree Operations, Inc.,* et al., San Francisco Superior Court, Case No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by Defendants in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. *Willems v. Diedrich Coffee, Inc., et al.,* Orange County Superior Court, Case No. 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendants in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. *Davila, et al. v. Beckman Coulter, Inc., et al.,* Orange County Superior Court, Case No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production workers employed by Defendants in the State of California. Plaintiffs' counsel appointed lead counsel. Cased settled, Final Approval granted, no objections and funds fully distributed.

v. *Perez v. Naked Juice Company of Glendora, Inc.,* Los Angeles Superior Court, Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for production employees employed by Defendants in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

w. *Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and Hour Cases*, Los Angeles Superior Court, Case No. JCCP 4545. Wage and Hour Class Action

seeking past wages for overtime, meal and rest period violations for security guards employed by Defendants in the State of California. Certification granted. Plaintiffs' counsel appointed as co-lead counsel. Writ taken. Court stays action pending Appellate Court ruling. Court lifts stay.

x. *Placencia v. Amcor Packaging Distribution, Inc.,* Orange County Superior Court, Case No. 30-2013-00694012-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, and penalties on behalf of non-exempt production, maintenance, shipping, and receiving employees employed by Defendants in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

y. *Trani v. Lisi Aerospace, et al.*, Los Angeles Superior Court, Case No. BC495527. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, and penalties on behalf of non-exempt manufacturing employees employed by Defendants in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

z. *Galvan v. Goodwin Co.*, Orange County Superior Court, Case No. 30-2013-00637062-CU-OE-CXC, Wage and Hour Class Action seeking past wages for meal period violations, and non-compliant wage statements on behalf of non-exempt production employees employed by Defendants in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

aa. *Reyes v. Bristol Fiberlite,* Orange County Superior Court, Case No. 30-2013-00653425-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, inaccurate wage statements, and penalties on behalf of non-exempt employees employed by Defendants in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

bb. *Gutierrez v. HMT Tank,* USDC Central Dist., Case No. CV14-1967-CAS(MANx). Wage and Hour Class Action seeking past wages for meal and rest period violations, failure to indemnify necessary expenses, inaccurate wage statements, and penalties on behalf of non-exempt employees working in positions related to servicing, refabricating and

repairing storage tanks employed by Defendants in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

cc. *Williams v. Il Fornaio America Corp.,* Sacramento County, Case No. 34-2011-0009616. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt restaurant employees employed by Defendants in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, and funds fully distributed.

dd. *Aguilar v. 7-Eleven, Inc.*, Orange County, Case No. 30-2009-002687141-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, and penalties on behalf of non-exempt retail clerks employed by Defendants in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

ee. *Madrigal v. Huntington Beach Market Broiler, Inc.*, Orange County, Case No. 30-2012-00611260. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt employees employed by Defendants in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

ff. *Vang v. Jazz Semiconductor, Inc.,* Orange County, Case no. 30-2011-00460278. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt production workers employed by Defendants in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

gg. *Cano v. Financial Statement Services, Inc.*, Orange County, Case No. 30-2013-00653349-CU-OE-CXC.

hh. *Gonzalez v. Quality Aluminum Force, LLC*, Orange County, Case No. 30-2015-00817941-CU-OE-CXC.

ii. *Smith v. Space Exploration Technologies Corp.*, Los Angeles County Case No. BC554258.

jj. *Madrigal v. Balda C Brewer, Inc.*, Orange County Case No. 30-2015-00820218-CU-OE-CXC.

kk. *Mendez v. Liberty Glass Fabricators, Inc.,* Riverside County Case No. RIC 1800119.

ll. *Attia v. Neiman Marcus Group, Inc.,* United States District Court for the Central District of California Case No. 8:16-cv-001504-DOC-FFM

mm. *Vigueras v. Red Robin*, United States District Court for the Central District of California Case No. 8:17-cv-1422-JVS-DFM.

nn. *Payne v. Marriott Ownership Resorts, Inc.*, San Diego County Case No. 37-2018-00015175-CU-OE-CTL.

78. In sum, my firm has been lead or co-lead counsel in hundreds of cases since its inception. We have recovered hundreds of millions of dollars for employees in the State of California and millions for the State as well through PAGA.

79. Our firm has served as class counsel in a number of significant wage and hour settlements. Of particular note, in 2019, our firm was co-lead counsel in securing the largest wage and hour class action settlement in California history at $130,000,000.00. During this case, plaintiffs appealed a decertification order. This case involved several appeals. The appellate record amassed an extensive appellate record comprising a 23-volume joint appendix, a three-volume reporters' transcript, five briefs, four letter briefs, two motions for judicial notice, a motion to augment the record, and several additional letters informing the appellate court of new legal authority issued after Dukes. The matter was argued to and submitted by the Court of Appeal on September 15, 2016, and on November 21, 2016, the decertification order was reversed and the case was remanded for further proceedings. (Lubin v. The Wackenhut Corporation ("Lubin"), 5 Cal. App. 5th 960 (2016)). Wackenhut filed a petition for review of the Court of Appeal decision to the California Supreme Court. The Supreme Court denied Wackenhut's petition for review of Lubin. The Court of Appeal issued remittitur on April 10, 2017. Eventually through additional litigation, the parties were able to secure the $130 million settlement that was approved on October 21, 2019 by Judge Highberger in the Los Angeles Superior Court.

80. Additionally, in early 2020, our firm served as lead counsel in a class action jury trial in the Central District of California involving the class and PAGA representative claims of over 23,000

employees which successfully resolved in the midst of trial for $8,500,000.00.

81. Our firm has settled many high-stakes class and representative actions. Hawkins' settlements have directly compensated hundreds of thousands of California workers and consumers. Hawkins' actions have also forced employers to modify their policies for the benefit of employees including changing the compensation structure for certain employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting class and PAGA enforcement actions, Hawkins has secured millions of dollars for workers and in civil penalties for the State of California.

82. Based on our experience, demonstrated competence, resources to prosecute the claims at issue and reputation among our colleagues in the both the defense and plaintiffs' bar, I respectfully submit our firm's experience in the field of wage and hour cases provides us the ability to prosecute claims swiftly and often times without the need for protracted litigation. Although, as demonstrated in the Wackenhut cases, we do not give up fighting for class members when challenged and necessary.

83. As is the case with many wage and hour cases, conditional class certification is vastly superior to the litigation of numerous individual claims because most of the claims are too small to litigate outside of the class context. As such, the superiority requirement is met for purposes of conditional certification.

84. Further, based on our experience, we consider ourselves experienced and qualified to evaluate the claims and viability of the defenses. Based on the history of this case and given our firm's extensive experience as class and representative action employment and wage and hour litigators, it is our view that the Settlement is fair, reasonable, and adequate, and in the best interest of the Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 25, 2024 in Irvine, California.

James R. Hawkins

Exhibit 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between plaintiff Jaime Gonzalez ("Plaintiff") and defendants ProBuild Company LLC (now known as BFS Group LLC, a Delaware Limited Liability Company (amended foreign name) and BFS Group of California LLC, a Delaware Limited Liability Company (amended California alternate name))and Builders FirstSource, Inc. (collectively, "Defendants"). The Agreement refers to Plaintiff and Defendants collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1. "Action" means the First Amended Consolidated Complaint filed by Plaintiff alleging wage and hour violations against Defendants and seeking penalties pursuant to Labor Code § 2698 *et seq.*, incorporating all claims, facts, and theories of liability asserted in the Plaintiff's Class Complaint filed on November 19, 2021, Case No. CVRI205278, and PAGA Complaint filed on January 24, 2022, Case No. CVRI2200313, in the Superior Court for the State of California, Riverside County and also any letter sent by Plaintiff to the California Labor and Workforce Development Agency. The actions will be consolidated under the class action, CVRI205278.

1.2. "Administrator" means Apex Class Action LLC 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 Maximum 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" or "PAGA Group Member" means all current and former non-exempt employees of Defendants who worked for Defendants within California at any time during the PAGA Period.

1.5. "Class" means all current and former non-exempt employees of Defendants who worked for Defendants within California at any time during the Class Period.

1.6. "Class Counsel" means James R. Hawkins, Christina M. Lucio, and Mitchell J. Murray of James Hawkins APLC.

1.7. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" means the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action, not to exceed 35% of the Maximum Settlement Amount plus reasonable costs and expenses.

1.8. "Class Data" means Class Member identifying information in Defendants' possession, including the Class Member's name, last-known mailing address, last-known telephone number, Social Security number, pay period and/or workweek data, and employment status (i.e., current or former).

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 a form mutually agreed upon by the Parties and presented for approval to the Court, without material variation.

1.12. "Class Period" means the period from October 4, 2020 to March 24, 2024.

1.13. "Class Representative" means Plaintiff Jaime Gonzalez, seeking Court approval to serve as the Class Representative.

1.14. "Class Representative Enhancement Payment" means the payment to the Class Representative for initiating the Action and providing services in support of the Action, not to exceed $10,000.

1.15. "Court" means the Superior Court of California, County of Riverside.

1.16. "Defendants" means the named Defendants ProBuild Company LLC, BFS Group LLC, a Delware Limited Liability Corporation and BFS Group of California, LLC, a Limited Liability Corporation[1] and Builders FirstSource, Inc.

1.17. "Defense Counsel" means Matthew B. Golper, Esq. of Ballard Rosenberg Golper & Savitt LLP.

1.18. "Effective Date" means the later of the following events: five calendar days after the period for filing any appeal, writ, or other appellate proceeding opposing Final Approval and Entry of Judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed, i.e., 65 days from the date the court grants final approval and enters judgment; or, if any appeal, writ, or other appellate proceeding opposing Final Approval and Entry of Judgment has been filed, five business days after any appeal, writ, or other appellate proceedings opposing the Settlement has finally and conclusively dismissed with no right to pursue further remedies or relief.

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. "Maximum Settlement Amount" means $2,500,000, which is the total amount Defendants agree to pay under the Settlement except as provided in Section 8 of this agreement regarding the escalator clause. The Maximum Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Enhancement Payment, and the Administrator's Expenses.

1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

[1] ProBuild Company LLC amended its foreign name to BFS Group LLC and its California name to BFS Group of California LLC in 2022 (during the pendency of this litigation).

1.24. "Individual PAGA Payment" means the PAGA Group Member's pro rata share of 25% of the PAGA Settlement Amount calculated according to the number of Pay Periods worked during the PAGA Period.

1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.27. "LWDA PAGA Payment" means 75% of the PAGA Settlement Amount paid to the LWDA under Labor Code section 2699, subd. (i).

1.28. "Net Settlement Amount" means the Maximum Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Enhancement Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.

1.31. "PAGA Period" means the period from November 20, 2020 to March 24, 2024.

1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.33. "PAGA Notice" means Plaintiff's letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.34. "PAGA Settlement Amount" means the total amount of PAGA civil penalties to be paid from the Maximum Settlement Amount ($125,000), allocated 25% to the PAGA Group Members ($31,250) and the remaining 75% to LWDA ($93,750) 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 Jaime Gonzalez, 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 Section 5.2 of this agreement.

1.40. "Released PAGA Claims" means the claims being released as described in Section 5.3 of this agreement.

1.41. "Released Parties" means Defendants and each of their respective officers, directors, employees and agents, including without limitation Builders FirstSource, Inc., ProBuild Company LLC,BFS Group,

LLC, a Delaware Limited Liability Company and BFS Group of California, LLC, a limited Liability Company.

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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 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may fax, email, or mail Requests for Exclusion from the Settlement or his or her Objection to the Settlement.

1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.45. "Workweek" means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

2. RECITALS.

2.1. On November 19, 2021, Plaintiff commenced the Class Action by filing a class action complaint in the Superior Court of California, County of Riverside, alleging causes of action against Defendants for (1) violation of the Fair Credit Reporting Act for failure to make proper disclosures, (2) violation of the Fair Credit Reporting Act for failure to obtain proper authorization, (3) failure to make proper disclosure under the California Investigative Consumer Reporting Agencies Act, (4) failure to make proper disclosure under the California Consumer Credit Reporting Agencies Act, (5) failure to pay minimum wages, (6) failure to pay overtime owed, (7) failure to provide lawful meal periods, (8) failure to authorize and permit rest periods, (9) failure to timely pay wages during employment, (10) failure to timely pay wages owed upon separation from employment, (11) knowing and intentional failure to comply with itemized wage statement provisions, and (12) violation of the unfair competition law

2.2. The Class Action was removed to the United States District Court for the Central District of California on February 17, 2022. Defendants filed or threatened to bring several motions to dismiss. As a result, on August 8, 2022, Plaintiff filed a First Amended Complaint in federal court.

2.3. After providing notice to the California Labor and Workforce Development Agency ("LWDA") on November 18, 2021, Plaintiff filed his related PAGA Action on January 24, 2022 in the Superior Court of California, County of Riverside, alleging claims for violations of and penalties pursuant to California Labor Code §2698 et seq. In relevant part, Plaintiff's PAGA complaint seeks PAGA penalties for the above-specified violations and for Defendants' failure to comply with the requirement of Labor Code section 1024.5 by pulling consumer credit reports for positions not specified or covered by the statute.

2.4. The Parties participated in a mediation on January 8, 2024 presided over by experienced mediator Brandon McKelvey, Esq., which led to this Agreement to settle the Action.

2.5. Prior to the mediation, Plaintiff, through informal discovery, successfully procured various pertinent documents from Defendants. These documents encompassed demographic information relevant to the Class and PAGA Group, select samples of payroll records and timecards, the employee handbook, and written policy materials. Utilizing these documents, Plaintiff conducted a comprehensive analysis of the case and potential damages. Plaintiff's counsel determined the investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130.

2.6. On August 1, 2022, Plaintiff filed a Second Amended Complaint in federal court to clarify the claims. The Parties have stipulated to remand the Class Action back to Riverside County Superior Court for the purposes of seeking approval of this Settlement.

2.7. The Court has not granted class certification.

2.8. 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. Maximum Settlement Amount. Except as otherwise provided by Section 8 of this agreement regarding the escalator clause, Defendants promise to pay $2,500,000 and no more as the Maximum Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Maximum Settlement Amount (or any payroll taxes) prior to the deadline stated in Section 4.3 of this Agreement. The Administrator will disburse the entire Maximum Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Maximum Settlement Amount will revert to Defendants.

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

3.2.1. To Plaintiff: Class Representative Enhancement Payment to the Class Representative of not more than $10,000 (in addition to any Individual Class Payment and Individual PAGA payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's request for a Class Representative Enhancement Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Enhancement Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Enhancement Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Enhancement Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Enhancement Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which is currently estimated to be $875,000 and a Class Counsel Litigation Expenses Payment of not more than $17,500. Defendants will not oppose requests for these payments provided they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 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 of the Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed the amount specified in the Administrator's "not to exceed" bid submitted to the Court in connection with the motion for Preliminary Approval, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than the bid amount, 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 wage claims (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 penalties and interest (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments: Non-Participating Class Members will not receive any Individual Class Payments. All funds represented by Individual Class Payments to Non-Participating Class Members will be allocated to the Net Settlement Fund and distributed to Participating Class Members.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Settlement Amount of $125,000 to be paid from the Maximum Settlement Amount, with 75% ($93,750) allocated to the LWDA PAGA Payment and 25% ($31,250) 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 the PAGA Settlement Amount ($31,250) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees' Individual PAGA Payments shall be allocated to 100% penalties and interest.

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.

3.2.5.3. The amount of the PAGA Settlement is not a material term of the settlement. If the Court determines a different amount should be allocated to PAGA, it does not invalidate or impact the enforceability of the rest of this settlement.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, as of June 30, 2023, Defendants estimate there are approximately 5,348 Class Members who collectively worked a total of 257,752 Workweeks during the Class Period. For the PAGA Period through June 30, 2023, there are an estimated 5,322 Aggrieved Employees who worked a total of 155,496 Pay Periods, comprised of 97,249 Weekly Pay Periods and 58,247 Bi-weekly Pay Periods.

4.2. Class Data. Not later than 21 calendar days after the Court grants Preliminary Approval of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain

the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if they discover that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Maximum Settlement Amount. Defendants shall fully fund the Maximum Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than 10 calendar days after the Effective Date.

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

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

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

4.4.3. For any Class Member or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and canceled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller’s Office, Unclaimed Property Division, to be securely held in the name of the Class Member or Aggrieved Employee.

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

5. RELEASES OF CLAIMS. Effective on the date when Defendants fully fund the entire Maximum Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, Aggrieved Employees, 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 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 6.2 and 6.3, below. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims as to Plaintiff's previously alleged (but dismissed without prejudice) violation of the Fair Credit Reporting Act, California Investigative Consumer Reporting Agencies Act, or California Consumer Credit Reporting Act for Failure to Make Proper Disclosures. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all demands, rights, liabilities, causes of action and claims that were alleged or that could have been alleged based on the facts and theories asserted in the Action arising at any time during the Class Period, including, without limitation, all of the following claims for relief: (1) failure to pay minimum, straight time, overtime, or double time wages, sick pay, and any other wages alleged in the Action; (2) failure to authorize and permit rest periods and/or failure to pay rest premiums at the regular rate; (3) failure to provide meal periods and/or failure to pay meal premiums at the regular rate; (4) failure to provide timely accurate and itemized wage statements; (5) failure to timely pay all wages during employment; (6) failure to pay final wages due at separation; (7) failure to reimburse or indemnify all necessary business expenses and losses; (8) failure to maintain records in violation of Labor Code section 1174; (9) failure to pay sick pay; (10) payment of wages earned with a gift card in violation of Labor Code section 212 and 450; (11) claims brought under Business & Professions Code section 17200, et seq. predicated on the same or similar facts and/or claims alleged in the Action, including, but not limited to all claims for unfair, unlawful and harmful conduct to class members, the general public, and Defendants' competitors, and claims of unlawfully gaining an unfair advantage over other businesses; (12) penalties of any nature that were alleged or that could have been alleged based on the facts and theories asserted in the Action; (13) interest; and (14) attorneys' fees and costs.

5.3. PAGA Release: Plaintiff and the LWDA release Released Parties from all demands, rights, liabilities, causes of action and claims under PAGA due to any alleged violations by Released Parties that were alleged or that could have been alleged based on the facts and theories asserted in the Action, or any letter to the Labor and Workforce Development Agency by Plaintiff, or that could have been premised on the claims, causes of action or legal theories described above in Section 5.2, including, but not limited to, alleged violations of Labor Code sections 201, 202, 203, 204, 210, 212, 216, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 245-249, 256, 450, 510, 512, 516, 558, 1024.5, 1174, 1182.12, 1185, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 1198.5, 1199, 2802, and 2804 pertinent IWC California Wage Orders, California Code of Regulations, Title 8, section 11000 et seq., interest, and all attorneys' fees and costs.

Upon entry of Judgment and the Effective Date, Plaintiff and the State of California will release the Released Parties of the Released PAGA Claims. "Because an aggrieved employee's action under the Labor Code Private Attorneys General Act of 2004 functions as a substitute for an action brought by the government itself, a judgment in that action binds all those, including nonparty aggrieved employees, who would be bound by a judgment in an action brought by the government." *Arias v. Superior Court* (2009) 46 Cal.4th 969, 986; *see also*, *Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104, 1117. Accordingly, with respect to the recovery of civil penalties, all nonparty Aggrieved Employees as well as the State of California, will be bound by the judgment in this action. *Arias, supra,* 46 Cal.4th at 986.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. Defendants' Declaration in Support of Preliminary Approval. Within 15 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendants shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement

6.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice and other notice documents, which shall be subject to mutual agreement and approval by the Parties before submitting to the Court; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), the consolidated Class/PAGA Complaint incorporating the PAGA claims originally noticed and those added after good faith meet and confer with Defendants (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2));; and (vi) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver

that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. **If the Parties cannot agree, any disputes shall be submitted to mediator Brandon McKelvey for resolution.** If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have selected Apex Class Action, LLC to serve as the Administrator, who the parties agree to be mutually agreed upon. The Administrator agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4. Notice to Class Members.

7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the Class Data, and whether the escalator clause in Section 8 will be triggered.

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice in a form that is mutually agreed upon by the Parties and approved by the Court. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address

provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4. The Response Deadline for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be 45 days after the Administrator's initial mailing of the Class Notice.

7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than the original Response Deadline.

7.5. Requests for Exclusion (Opt-Outs).

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

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

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Section 5 of this agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. However, Aggrieved Employees who submit a Request for Exclusion are still deemed to release the PAGA claims and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks and/or Pay Periods. Each Class Member shall have until the Response Deadline to challenge the number of Class Workweeks and PAGA Pay Periods allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks and/or Pay Periods contained in the Class Notice

are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

7.7. Objections to Settlement.

7.7.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Enhancement Payment.

7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail not later than the Response Deadline.

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

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

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

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

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

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

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

7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Maximum 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 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE: Defendants estimate that Class Members worked approximately 257,752 workweeks from October 4, 2020 through June 30, 2023. Defendants further estimate Aggrieved Employees worked approximately 155,496 Pay Periods from November 20, 2020 through June 30, 2023. If the actual number of workweeks worked by Class Members as of June 30, 2023 is more than 10% above 257,752, the Maximum Settlement Amount will increase proportionally for every percentage above 10%. For example, if the workweeks as of June 30, 2023 increased by 11%, the Maximum Settlement Amount would increase by 1%.

9. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendants may, in their sole discretion, elect to withdraw from the Settlement. Defendants shall exercise such right to withdraw no later than fifteen (15) days after the deadline for Class Members to request exclusion from the settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. In the event of Defendants' withdrawal, no party may use the fact that the Parties agreed to the settlement for any reason.

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

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

10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class

Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Enhancement Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, PAGA Settlement Amount, and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this section.

10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law. The Parties agree to stipulate to remand of the Class Action to Riverside Superior Court for the purposes of seeking approval of the Settlement. While the Parties agree that the settlement approval process shall take place in state court, in the event the settlement is not approved for any reason, the parties agree that the Class Action matter shall proceed in federal court.

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

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

11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment. Any disputes arising from the preparation of a final stipulation for settlement, if not resolved by the Parties, shall be resolved by mediator Brandon McKelvey, Esq.

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' 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 not grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class

certification on any grounds available and to contest Defendants' defenses. Neither the Parties' settlement discussions, nor this Agreement or any "long form" settlement agreement shall constitute an admission of liability or of the accuracy of any allegation made by Plaintiff or Plaintiff's counsel. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (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, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This section does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. The Parties and their counsel agree not to take any action to encourage any Class Members to opt out of or object to the settlement. Nothing in this section shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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

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

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

12.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person

or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destruction, of Class Data.

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

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

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

To Plaintiff:

James R. Hawkins, Esq.
Christina M. Lucio, Esq.
Mitchell J. Murray, Esq.

JAMES HAWKINS APLC
9880 Research Drive, Suite 200 Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676
James@jameshawkinsaplc.com
Christina@jameshawkinsaplc.com
Mitchell@jamesawkinsaplc.com

To Defendants:

Matthew B. Golper, Esq.
BALLARD ROSENBERG GOLPER & SAVITT LLP
15760 Ventura Boulevard, 18th Floor Encino, California 91436
Telephone: (818) 508-3700
Facsimile: (818) 506-4827
mgolper@brgslaw.com

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

12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties will diligently cooperate to submit the Notice of Settlement and Preliminary Approval documents to the Court. 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.

By: _____
Jaime Gonzalez (Nov 21, 2024 05:29 PST)
Plaintiff Jaime Gonzalez

JAMES HAWKINS APLC

By: _____
James R. Hawkins, Esq.
Christina M. Lucio, Esq.
Mitchell J. Murray, Esq.
Counsel for Plaintiff

By:_____

Name:_____
Defendant BFS Group LLC (formerly known as ProBuild Company LLC) and Builders FirstSource, Inc.

BALLARD ROSENBERG GOLPER & SAVITT LLP

By:_____
Matthew B. Golper, Esq.
Counsel for Defendant

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

GONZALEZ v. PROBUILD COMPANY, LLC et al.
Case No. CVRI2200313

The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action and PAGA representative action lawsuit ("Action") against ProBuild Company LLC (now known as BFS Group LLC and BFS Group of California LLC) and Builders FirstSource, Inc. (collectively, "Defendants") for alleged wage and hour violations. The Action was filed by a former employee Jaime Gonzalez ("Plaintiff") and seeks payment of (1) back wages, (2) interest, (3) penalties, and (4) other relief for a class of non-exempt employees ("Class Members") who worked for Defendants during the Class Period (October 4, 2020 to March 24, 2024); and (5) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt employees who worked for Defendants during the PAGA Period (November 20, 2020 to March 24, 2024) ("Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendants' records, and the Parties' current assumptions, **your estimated Individual Class Payment is $_____ (less withholding) and your estimated Individual PAGA Payment is $_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants' records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendants' records showing that **you worked _____ workweeks** during the Class Period (October 4, 2020 to March 24, 2024) and **you worked _____ pay periods** during the PAGA Period (November 20, 2020 to March 24, 2024). If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendants during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing**. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member,

though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendants.

(2) **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendants will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement **The Opt-out Deadline is _____**	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section **6** of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement **Written Objections Must be Submitted by _____**	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section **7** of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section **8** of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods **Written Challenges Must be Submitted by _____**	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section **4** of this Notice.

1.WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by (1) failing to pay minimum wages, (2) failing to pay overtime owed, (3) failing to provide lawful meal periods, (4) failing to authorize and permit rest periods, (5) failing to timely pay wages during employment, (6) failing to timely pay wages owed upon separation from employment, (7) knowing and intentionally failing to comply with itemized wage statement provisions, (8) violating the unfair competition law, and (9) improperly securing background checks. Based on these claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA").

Additionally, the Action alleges that Defendants violated the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. ("FCRA"), the Investigative Consumer Reporting Agencies Act, Cal. Civ. Code § 1786 et seq. ("ICRAA"), and the Consumer Credit Reporting Agencies Act, Cal. Civ. Code § 1785.1 et seq. ("CCRAA") by procuring background checks on Plaintiff and Class Members without providing proper disclosures and obtaining lawful authorization. However, these claims are not being resolved as part of the Settlement.

Plaintiff is represented by the law firm JAMES HAWKINS APLC ("Class Counsel.")

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

2.WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendants or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendants Will Pay $2,500,000 as the Maximum Settlement Amount. Defendants have agreed to deposit the Maximum Settlement Amount into an account controlled by the Administrator of the Settlement. The Administrator will use the Maximum Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Enhancement Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendants will fund the Maximum Settlement Amount not more than 10 days after the Judgment entered by the Court becomes final. The Judgment will be final 65 days after the Court enters Judgment, or at a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Maximum Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to $875,000 (35% of the Maximum Settlement Amount) to Class Counsel for attorneys' fees and up to $20,000 for actual litigation costs and expenses. To date, Class Counsel has worked and incurred expenses on the Action without payment.

B. Up to $10,000 as a Class Representative Enhancement Payment for filing the Action, working with Class Counsel, and representing the Class. A Class Representative Enhancement Payment will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

C. Up to $_____ to the Administrator for services administering the Settlement.

D. Up to $125,000 for the PAGA Settlement Amount, allocated 75% ($93,750) to the LWDA PAGA Payment and 25% ($31,250) in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Maximum Settlement Amount (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to penalties and interest ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes owed on the Wage Portion. The Individual PAGA Payments are counted as 100% penalties and interest for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the expiration date (the void date). If you don't cash it by the void date (180 days after mailing), your check will be automatically cancelled, and the money will be transmitted to the California State Controller's Office, Unclaimed Property Division, to be held securely in your name.

If the void date has passed and the money represented by your check is sent to the California State Controller's Office, you should consult the rules of the State Controller's Office for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than 45 days after the Administrator mails the Class Notice, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendants based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not pay any money and Class Members will not release any claims against Defendants.

8. Administrator. The Court has appointed a neutral company, Apex Class Action LLC (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks and or Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Maximum Settlement Amount and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for any and all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts and theories asserted in the Action as stated in the Settlement Agreement and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

> All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all demands, rights, liabilities, causes of action and claims that were alleged or that could have been alleged based on the facts and theories asserted in the Action arising at any time

during the Class Period, including, without limitation, all of the following claims for relief: (1) failure to pay minimum, straight time, overtime, or double time wages, sick pay, and any other wages alleged in the Action; (2) failure to authorize and permit rest periods and/or failure to pay rest premiums at the regular rate; (3) failure to provide meal periods and/or failure to pay meal premiums at the regular rate; (4) failure to provide timely accurate and itemized wage statements; (5) failure to timely pay all wages during employment; (6) failure to pay final wages due at separation; (7) failure to reimburse or indemnify all necessary business expenses and losses; (8) failure to maintain records in violation of Labor Code section 1174; (9) failure to pay sick pay; (10) payment of wages earned with a gift card in violation of Labor Code section 212 and 450; (11) claims brought under Business & Professions Code section 17200, et seq. predicated on the same or similar facts and/or claims alleged in the Action, including, but not limited to all claims for unfair, unlawful and harmful conduct to class members, the general public, and Defendants' competitors, and claims of unlawfully gaining an unfair advantage over other businesses; (12) penalties of any nature that were alleged or that could have been alleged based on the facts and theories asserted in the Action; (13) interest; and (14) attorneys' fees and costs.

Participating Class Members are not releasing any claim as to Plaintiff's previously alleged (but dismissed without prejudice) violation of the Fair Credit Reporting Act, California Investigative Consumer Reporting Agencies Act, or California Consumer Credit Reporting Act for Failure to Make Proper Disclosures.

10. PAGA Release. After the Court's judgment is final, and Defendants have paid the Maximum Settlement Amount (and separately paid the employer-side payroll taxes), Plaintiff is deemed to release, on behalf of himself and his respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the from all demands, rights, liabilities, causes of action and claims that could have been sought by the Labor Commissioner for the alleged violations by Released Parties that were alleged or that could have been alleged based on the facts and theories asserted in the Action, or any letter to the Labor and Workforce Development Agency by Plaintiff, or that could have been premised on the claims, causes of action or legal theories described above, including, but not limited to, alleged violations of Labor Code sections 201, 202, 203, 204, 210, 212, 216, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 245-249, 256, 450, 510, 512, 516, 558, 1024.5, 1174, 1182.12, 1185, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 1198.5, 1199, 2802, and 2804 pertinent IWC California Wage Orders, California Code of Regulations, Title 8, section 11000 et seq., interest, and all attorneys' fees and costs associated with the claims in this Section 10 (the "Released PAGA Claims")

Upon entry of Judgment and the Effective Date, Plaintiffs and the State of California will release the Released Parties of the Released PAGA Claims. "Because an aggrieved employee's action under the Labor Code Private Attorneys General Act of 2004 functions as a substitute for an action brought by the government itself, a judgment in that action binds all those, including nonparty aggrieved employees, who would be bound by a judgment in an action brought by the government." *Arias v. Superior Court* (2009) 46 Cal.4th 969, 986; *see also*, *Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104, 1117. Accordingly, with respect to the recovery of civil penalties, all nonparty Aggrieved Employees as well as the State of California, will be bound by the judgment in this action. *Arias, supra,* 46 Cal.4th at 986.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments 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 the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing $31,250 (25% of the $125,000 PAGA Settlement) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated on the first page of this Notice. **You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you.** You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Workweeks and/or Pay Periods based on Defendants' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendants' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Non-Participating Class Members. Non-Participating Class Members (those who opted out of the Class Settlement) will not receive any Individual Class Payments. However, the Administrator will send a single Individual PAGA Payment check to every Aggrieved Employee, including those who opted out of the Class Settlement, as Aggrieved Employees cannot opt out of the PAGA portion of the settlement.

Your check will be sent to the same address as in this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Class Settlement. The Administrator will exclude you from the Class Settlement based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as *Gonzalez v. ProBuild Company LLC, et al.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and last four digits of your social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must receive your request to be excluded by _____, or it will be invalid. Section 9 of this Notice has the Administrator's contact information.**

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the class action components of the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendants are asking the Court to approve. At least 16 days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Class Representative Enhancement Payment stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Enhancement Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's website _____**(url)**_____ or the Court's website _____**(url)**_____.

A Participating Class Member who disagrees with any aspect of the Settlement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Class Representative Enhancement Payment may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for the Administrator to receive your written objection is _____** [45 days after the Administrator mails the Notice]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the name of the action, *Gonzalez v. ProBuild Company LLC, et al.*, and include your name, current address, telephone number, approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at **(time)** in Department ___ of the Superior Court of California, County of Riverside, located at 4050 Main Street, Riverside, CA 92501. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Maximum Settlement Amount will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before deciding. You can attend (or hire a lawyer to attend) either personally or virtually via Zoom. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to ____(specify entity)____'s website at _____(url)_____. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (https://epublic-access.riverside.courts.ca.gov/public-portal/) and entering the Case Number for the Action, Case No. CVRI2200313. You can also make an appointment to personally review court documents in the Clerk's Office by calling (951) 777-3147.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:
Name of Attorneys: James Hawkins, Christina Lucio, Mitchell J. Murray
Email Addresses:
james@jameshawkingsaplc.com, christina@jameshawkinsaplc.com, mitchell@jameshawkinsaplc.com
Name of Firm: _James Hawkins APLC_____
Mailing Address: 9880 Research Drive, Suite 200 Irvine, California 92618_____
Telephone: (949) 387-7200_____

Settlement Administrator:
Name of Company: Apex Class Action LLC_____
Email Address: _____
Mailing Address: _____
Telephone: _____
Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the California State Controller's Office, Unclaimed Property Division for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

Exhibit 2

From: DIR PAGA Unit
To: Mitchell J Murray
Subject: Thank you for your Proposed Settlement Submission
Date: Monday, November 25, 2024 4:01:44 PM

11/25/2024 04:01:23 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement
If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm