

CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class and Representative Action Settlement Agreement and Release (“Agreement”) encompasses four actions, *Barajas de Botello v. Boral Stone Products LLC*, Napa County Superior Court Case No. 22CV00732 (“*Barajas* Representative Action”); *Barajas de Botello v. Boral Stone Products LLC*, U.S.D.C. Case No. 3:22-cv-03863-VC (“*Barajas* Class Action”); *Servin v. Westlake Royal Stone LLC*, Napa County Superior Court Case No. 22CV000433 (“*Servin* Representative Action”); and *Servin v. Westlake Royal Stone LLC*, U.S.D.C. Case No. 3:22-cv-06544-VC (“*Servin* Class Action”) (collectively these four actions are referred to as “the Actions”).

This Agreement is entered into between Plaintiffs Estela Barajas de Botello (“Barajas”) and Elvia Servin (“Servin”) (collectively, “Plaintiffs” or “Class Representatives”), individually and on behalf of the proposed Settlement Class Members, on the one hand, and Defendant Westlake Royal Stone LLC (formerly known as Boral Stone Products LLC”) (“Westlake” or “Defendant”) on the other hand (Plaintiffs and Defendant are collectively referred to herein as “the Parties”).

This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and settle the “Released Claims” (as defined below) on a class and representative action basis pertaining to the “Released Parties” (as defined below) upon and subject to the terms and conditions contained herein. This Agreement, which is contingent upon Final Court approval, contains the terms of the Parties’ agreement. The Plaintiffs and Class Counsel believe that the settlement set forth in this Agreement confers substantial benefits upon the Class Members as defined below.

I. DEFINITIONS

1. Actions

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“Actions” means the *Barajas* Representative Action, *Barajas* Class Action, *Servin* Representative Action, and *Servin* Class Action.

2. Class Counsel

“Class Counsel” means Schneider Wallace Cottrell Konecky LLP and Mahoney Law Group, APC who, subject to Court approval, shall act as counsel for the Settlement Class.

3. Class Counsel Award

“Class Counsel Award” means attorneys’ fees for Class Counsel’s litigation and resolution of the Actions, and Class Counsel’s expenses and legal costs incurred in connection with the Actions.

4. Class Information

“Class Information” or “Class Data” means information regarding Settlement Class Members that Westlake will provide to the Settlement Administrator in a Microsoft Excel spreadsheet. To the extent available from Westlake’s records, the spreadsheet will contain each Settlement Class Member’s full name; last known address; Social Security Number; and the total number of Workweeks during the Class Period and PAGA Period, respectively. Should the Settlement Administrator need to communicate with Settlement Class Members via email in order to perform skip tracing, Westlake will provide the email addresses for those Settlement Class Members within five (5) business days if available in their records. The Settlement Administrator shall maintain the Class Information as private and confidential and shall not disclose such data to any persons or entities other than Counsel for Defendant, except that relevant information can be provided to Class Counsel if necessary for Class Counsel to respond to inquiries or requests from Settlement Class Members.

5. Class Period

“Class Period” means the period from June 29, 2018 through February 3, 2024.

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6. Class Representatives

“Class Representatives” means Plaintiffs Estela Barajas de Botello and Elvia Servin.

7. Class Representatives’ Service Award

“Class Representatives’ Service Award” means the amount that the Court authorizes to be paid to each Plaintiff, not to exceed \$10,000.00 for each Plaintiff, in addition to each Plaintiff’s Individual Settlement Payment and Individual PAGA Payment, in recognition of Plaintiffs’ efforts and risks in assisting with the prosecution of the Actions and in return for executing a general release with Defendant.

8. Class Representatives’ Released Claims

“Class Representatives’ Released Claims” means all known and unknown claims against the Released Parties, including any Released Claims as well as other wage and hour claims, claims under California Business & Professions Code section 17200, claims under the Labor Code, including, but not limited to, claims under the Private Attorneys General Act (“PAGA”), claims under the Fair Labor Standards Act (“FLSA”), and all claims for indemnity or reimbursement of business expenses, overtime compensation, minimum wages, penalties, liquidated damages, and interest, and all other claims under state, federal, and local laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the Employee Retirement Income Security Act of 1974, and all of their implementing regulations and interpretive guidelines, as well as the common law, including laws related to discrimination, harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated, arising from or relating to Class Representatives’ relationship, or termination of relationship, with any Released Party through the date of Final Approval for any type of relief. Class Representatives further covenant that they will not become a member of any other legal actions against the Releasees to the extent such action(s)

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cover the same claims at issue in the general release in this agreement arising during the Class Period, as that term is defined, asserting any of Class Representatives' Released Claims, and will opt out of any such actions if necessary. For the avoidance of doubt, this is a complete and general release to the maximum extent by law. The general release shall apply to the same time period as the Class Period.

With respect to Class Representatives' Released Claims, the Class Representatives waive their rights under California Civil Code section 1542 which states:

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.

9. Complaints

"Complaints" mean the PAGA complaint filed on April 20, 2022 in the *Servin* Representative Action; the PAGA complaint filed on June 29, 2022 in the *Barajas* Representative Action; the class complaint filed on June 29, 2022 in the *Barajas* Class Action; the class complaint filed on August 19, 2022 in the *Servin* Class Action; and the proposed Consolidated Complaint to be filed in the *Barajas /Servin* Class/PAGA Consolidated Action in Napa County Superior Court, which is proposed as part of this Settlement and attached as **Exhibit 1** to this Agreement.

10. Court

"Court" means the Superior Court for the County of Napa.

11. Defendant

"Defendant" means Defendant Westlake Royal Stone LLC, formerly known as Boral Stone Products LLC.

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12. Effective Date

“Effective Date” means the date on which the Court’s order granting Final Approval of this Settlement becomes final. Such order becomes final as of the latest of the following occurrences: (i) sixty (60) days after the Court issues the Final Approval Order granting approval of this Settlement Agreement if no objections to the settlement are filed and no appeal is filed; or (ii) if an appeal is filed and is finally disposed of by ruling, dismissal, denial, or otherwise resulting in approval of the Settlement, the day after the last date for filing a request for further review of the Court of Appeal’s decision passes and no further review is requested; or (iii) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal resulting in approval of the Settlement, and further review of the Court of Appeal’s decision is requested, the day after the request for review is denied with prejudice and/or no further review of the order can be requested; or (iv) if review is accepted, the day after the California Supreme Court affirms the judgment or order approving the Settlement.

13. Escalator Clause

“Escalator Clause:” Defendant represented prior to the mediation that through April 1, 2023, there were approximately 804 Settlement Class Members who collectively worked a total of approximately 93,740 workweeks, and the Parties agree that the extrapolated total number of Workweeks worked by the Participating Settlement Class Members during the Class Period through July 18, 2023 is 99,564 (the “Base Workweeks”). In the event that the total number of Workweeks worked by the Participating Class Members during the Class Period exceeds the Base Workweeks by more than 10%, then: (1) Defendant may elect to increase the Total Settlement Amount by the same number of percentage points above 10% by which the actual number of Workweeks exceeds the Base Workweeks (e.g., if the actual number of Workweeks is 12% higher than the Base Workweeks, the Total Settlement Amount would be increased by 2%); or (2) Defendant may elect to have the Class Period and PAGA Periods and Released Claims and PAGA Release dates end as of the date the 10% threshold was reached. In the event Defendant declines

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to elect either of these options, the Parties will meet and confer (with the assistance of the Mediator, if necessary) to attempt to reach a different agreement for addressing the issue. Otherwise, in the event the parties are unable to reach such an agreement Plaintiffs may, at their option, void the settlement or proceed with the settlement without any increase in the Total Settlement Amount.

14. Final Approval Hearing

“Final Approval Hearing” means the final hearing held to ascertain the fairness, reasonableness, and adequacy of the Settlement.

15. Final Approval Order

“Final Approval Order” means the Court’s order determining the Settlement to be fair, reasonable, and adequate and granting final approval of the Settlement and judgment based thereon.

16. Final Judgment

“Final Judgment” means a judgment issued by the Court approving this Agreement as binding upon the Parties, Participating Class Members, the PAGA Settlement Group and the LWDA in a form substantially similar to Exhibit 2. The Final Judgment shall constitute a judgment respecting the Parties within the meaning and for purposes of California Code of Civil Procedure sections 577, 581d, and 904.1(a), and on the PAGA claims for purposes of enforcing the rule announced in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009).

17. Individual PAGA Payment

The term “Individual PAGA Payment” means the pro rata share of the \$37,500 portion (or 25%) of the PAGA Payment allocated to alleged aggrieved employees in the *Barajas* and *Servin* Representative Actions that each Settlement Class Member who worked during the PAGA Period will receive, without regard to whether that Settlement Class Member chooses to opt out of the Class Settlement.

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18. Individual Settlement Payment

“Individual Settlement Payment” means the amount paid from the Net Settlement Amount to a Participating Class Member. Any Settlement Class Member who timely submits a Request for Exclusion pursuant to the procedures set forth herein is not a Participating Class Member and is not eligible to receive an Individual Settlement Payment.

19. LWDA

“LWDA” means the California Labor and Workforce Development Agency.

20. LWDA PAGA Payment

“LWDA PAGA Payment” means 75% of the PAGA Payment, to be made to the LWDA as its share of civil penalties pursuant to the requirements of PAGA a under the Settlement for the *Barajas* and *Servin* Representative Actions.

21. Net Settlement Amount

“Net Settlement Amount” means the Total Settlement Amount, less Court-approved Class Counsel Award, Class Representatives’ Service Award, PAGA Payment, and Settlement Administration Costs. The Net Settlement Amount is the total amount that will be paid to Participating Class Members, in the form of Individual Settlement Payments.

22. Notice of Class and Representative Action Settlement

“Notice of Class and Representative Action Settlement” means the notice jointly prepared by the Parties and subject to Court approval, substantially in the form of **Exhibit 3** attached hereto, explaining the terms of this Agreement and the settlement process, which the Settlement Administrator will mail to each Settlement Class Member.

23. PAGA

“PAGA” refers to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2699, *et seq.*

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24. PAGA Payment

“PAGA Payment” means the payment in the amount of \$150,000, or other amount ordered by the Court, to be paid out of the Total Settlement Amount for civil penalties under PAGA.

25. PAGA Period

“PAGA Period” means the period from February 4, 2021 through February 3, 2024.

26. PAGA Settlement Group

“PAGA Settlement Group” refers to all Settlement Class Members who were employed on or after February 4, 2021 and therefore will be paid an Individual PAGA Payment, regardless of whether they exclude themselves from the Class Settlement.

27. PAGA Release

The phrase “PAGA Release” shall mean any and all claims or causes of action for civil penalties and other relief available pursuant to PAGA, whether individual or non-individual, attorneys fees or costs, and any other applicable relief under PAGA, against Released Parties that were or could have been pled based on the alleged facts, theories and violations set forth in the Complaints and/or the LWDA notices. Regardless of whether any Class Members opt out of the Class Settlement, they will still be bound by the PAGA Release if they are members of the PAGA Settlement Group. The period of the PAGA Release will extend through February 3, 2024.

28. Participating Class Members

“Participating Class Members” means those Class Members who do not file a valid and timely Request for Exclusion. Only Participating Class Members will receive an Individual Settlement Payment. Class Members cannot exclude themselves from being included in the PAGA Settlement Group and being subject to the PAGA Release if the court approves the PAGA Settlement.

29. Parties

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“Parties” means Plaintiffs and Defendant, collectively.

30. Plaintiffs

“Plaintiffs” mean Estela Barajas de Botello and Elvia Servin.

31. Preliminary Approval Date

“Preliminary Approval Date” means the date on which the Court issues an order granting preliminary approval of the proposed Settlement.

32. Qualified Settlement Fund

“Qualified Settlement Fund” or “QSF” means the account established by the Settlement Administrator which the Parties agree will at all times be treated as a “qualified settlement fund” within the meaning of Treas. Reg. section 1.468 B-1, *et seq.* The Parties agree the Settlement Administrator shall, in establishing the account, make any such elections as necessary or advisable to carry out the “relation back election” (as defined in Treas. Reg. section 1.468B-1(j)(2)(i)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary Parties, and to cause the appropriate filing to occur. The Parties further agree and acknowledge that, for purposes of Section 468B of the Internal Revenue Code of 1986, as amended (the “Code”) and the Treasury Regulations promulgated thereunder, only the Defendant shall be treated as a “transferor” (within the meaning of such term under Treasury Regulations section 1.468B-1(d)(1)) with respect to the Qualified Settlement Fund.

33. Released Claims

“Released Claims” shall mean any and all claims and/or causes of action under any state, local or federal law or administrative order by Settlement Class Members and PAGA Settlement Group Members against Released Parties that were or could have been pled based on the facts,

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theories and/or violations alleged in the Complaints, including but not limited to, any claim for: (1) Failure to Pay Minimum and Overtime Wages in Violation of Lab. Code §§ 510, 1194, 1197, 1197.1 and 1198, § 4; (2) Failure to Provide and/or Make Available Meal Periods in Violation of Lab. Code §§ 226.7 and 512; (3) Failure to Provide Rest Periods or Premium Compensation in Lieu Thereof in Violation of Lab. Code §§ 226.7; (4) Failure to Reimburse Business Expenses in Violation of Lab. Code § 2802; (5) Failure to Provide Accurate Itemized Wage Statements in Violation of Lab. Code §§ 226, 226.3, 1174, and 1174.5; (6) Failure to Pay Wages Due Upon Termination of Employment in Violation of Lab. Code §§ 201, 202, and 203; and (7) Unlawful and Deceptive Business Practices in Violation of Business & Professions Code §§ 17200, *et seq.* based on such alleged facts, theories and/or violations, any claims based on such alleged facts, theories and/or violations that could have been brought under the Fair Labor Standards Act (“FLSA”) or any applicable California Industrial Welfare Commission Wage Order; related common law claims based on or reasonably arising out of or reasonably related to any such facts, theories and/or violations; and any other derivative claims under California law including claims for statutory or civil penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief. The period of Released Claims shall be through February 3, 2024.

34. Released Parties

“Released Parties” or “Releasees” means Defendant and any of its former or present direct and/or indirect parent companies, subsidiaries, affiliates, divisions, predecessors, or successors, and its and their respective officers, directors, managers, owners, members, heirs, employees, partners, shareholders, attorneys, agents, fiduciaries, insurers, investors, assigns, executors, administrators, beneficiaries, legal representatives, trustees, joint employers and employees, past and present, and each of them and anyone acting in concert with any of the foregoing.

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35. Request for Exclusion

“Request for Exclusion” means a written communication signed by a Settlement Class Member setting forth the Settlement Class Member’s name, present address, and a statement electing to be excluded from the Class Settlement. However, such Settlement Class Members will still be bound by the terms of the PAGA Release if they are members of the PAGA Settlement Group. Specific details of how to submit a “Request for Exclusion” will be provided by the Class Notice.

36. Response Deadline

“Response Deadline” means the date forty-five (45) days after the Settlement Administrator mails the Notice of Class and Representative Action Settlement to Settlement Class Members, which is the last date on which Settlement Class Members may: (a) submit a Request for Exclusion; (b) submit objections to the settlement; or (c) dispute the information contained in the Notice of Class and Representative Action Settlement.

37. Settlement

“Settlement” or “Agreement” means this Class and Representative Action Settlement Agreement and Release.

38. Settlement Class Members

“Settlement Class Members” or “Class Members” means all current and former hourly, non-exempt employees who were employed by Westlake Royal Stone LLC, formerly known as Boral Stone Products LLC, and worked in California during the time period starting from June 29, 2018 through the date the Court grants preliminary approval of this settlement or February 3, 2024, whichever is earlier.

39. Settlement Administrator

“Settlement Administrator” means Phoenix Class Action Administration Solutions, the

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third-party Settlement Administrator mutually agreed to by the Parties and appointed by the Court upon Class Counsel's motion for preliminary approval of this Settlement.

40. Settlement Administrator Costs

"Settlement Administrator Costs" means the amount to be paid to the Settlement Administrator from the Total Settlement Amount for administration of this Settlement, and are estimated to be \$16,950.00. References herein to actions and responsibilities of the Settlement Administrator shall be to those actions and responsibilities it shall take as set forth in the Agreement.

41. Total Settlement Amount

"Total Settlement Amount" means the total maximum amount payable under the terms of this Agreement by Defendant, which is the gross sum of \$3,000,000, unless increased pursuant to the Escalator Clause, not including Defendant's obligation to separately pay the employer's portion of payroll taxes on the wage portion of the Individual Settlement Payments as provided in this Agreement, and includes, without limitation: the Individual Settlement Payments to Participating Class Members; the Individual PAGA payments to PAGA Settlement Group members; the LWDA PAGA Payment, payment of Settlement Administration Costs as approved by the Court; any Class Representatives' Service Award to Plaintiffs Barajas and Servin as approved by the Court; and a payment to Class Counsel of attorneys' fees and reasonable litigation costs which shall be determined at the time of the final approval motion by the Court. Payment of the amount necessary to cover the employer's portion of payroll taxes associated with the portion of the Individual Settlement Payments allocated to wages, such wages not to exceed 13.5% (\$405,000) of the Total Settlement Amount, shall be transmitted to the Settlement Administrator by Defendant, in addition to the Total Settlement Amount. The Settlement Administrator will make all required tax deductions and payments using a Qualified Settlement Fund. As set forth herein,

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the Settlement Administrator will issue all of the above-referenced payments from the Qualified Settlement Fund in accordance with the applicable provisions of this Stipulation.

42. Workweeks

“Workweeks” or “Weeks Worked” means any and all workweeks during the Class Period, or, if applicable, PAGA Period, during which the Settlement Class Member worked at least one (1) day in California while employed by Defendant. For simplicity’s sake, the Parties have agreed to use Workweeks to calculate both Individual Settlement Payments and Individual PAGA Payments even though Defendant’s pay periods were bi-weekly during the Class Period.

II. RECITALS

1. Class Certification.

The Parties stipulate to class certification for purposes of settlement only. If the Court does not grant both Preliminary and Final Approval of this Settlement, the Parties agree that this stipulation regarding class certification will become null and void, and shall have no bearing on, and shall not be admissible in connection with, the issue of whether certification would be appropriate in a non-settlement context.

2. Procedural History.

On February 4, 2022, Servin submitted her pre-filing notice to the LWDA of her intention to pursue PAGA penalties against Boral Stone. On April 20, 2022 Plaintiff Servin filed the *Servin* Representative Action in Napa County Superior Court, Case No. 22CV000433. The *Servin* Representative Action alleged the following claims against Boral Stone Products LLC, now doing business as Westlake Royal Stone LLC, pursuant to PAGA: (1) Unpaid Wages and Overtime; (2) Failure to Provide Rest Periods; (3) Failure to Keep Adequate Payroll Records and Provide Accurate Itemized Wage Statements; and (4) Failure to Provide All Wages Due Upon Termination of Employment.

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On April 19, 2022, Barajas submitted her pre-filing notice to the LWDA of her intention to pursue PAGA penalties against Defendant. On June 29, 2022 Plaintiff Barajas filed the *Barajas* Class Action in United States District Court, Northern District of California, Case No. 3:22-cv-03863-VC, alleging the following causes of action: (1) Failure to Pay Minimum Wages for All Hours Worked; (2) Failure to Pay Overtime Wages; (3) Failure to Provide and/or Make Available Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Reimburse Business Expenses; (6) Failure to Provide Timely and Accurate Itemized Wage Statements; and (7) Unlawful Business Practices. Also on June 29, 2022, Plaintiff Barajas also filed the *Barajas* Representative Action in Napa County Superior Court, Case No. 22CV000732, seeking civil penalties pursuant to PAGA for the same violations as the *Barajas* Class Action.

On August 19, 2022, Plaintiff Servin filed the *Servin* Class Action in Napa County Superior Court, Case No. 22CV00957, alleging Unfair Business Practices in addition to the same underlying labor code violations as the *Servin* Representative Action on a class-wide basis, which was removed to United States District Court, Northern District of California, Case No. 3:22-cv-06544-VC.

The Parties engaged in extensive informal discovery and information exchanges, including time and pay data for the putative class members and relevant policy documents. Defendant provided information sufficient to enable the Plaintiffs and Class counsel to rigorously evaluate the strengths and risks of the case and perform an analysis of the potential damages and civil penalties arising from the claims made in the Actions. On July 19, 2023, all Parties attended an all-day mediation with Jeffrey A. Ross, Esq., and the mediation and subsequent arms-length settlement negotiations resulted in this Settlement.

3. Benefits of Settlement to Settlement Class Members.

Plaintiffs and Class Counsel recognize the expense and length of continued proceedings

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necessary to litigate their disputes through trial and through any possible appeals. Plaintiffs took into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in litigation. Plaintiffs and Class Counsel are also aware of the burdens of proof necessary to establish liability for the claims asserted in the Actions, both generally and in response to Defendant's defenses thereto, and the difficulties in establishing damages for the Settlement Class Members. Plaintiffs and Class Counsel have considered Defendant's agreement to enter into a settlement that confers substantial relief upon the members of the Settlement Class. Based on the foregoing, Class Counsel have concluded that settlement, for the consideration and on the terms set forth in this Settlement Agreement, is fair, reasonable, and adequate and is in the best interest of the putative class in light of all known facts and circumstances, including the risk of delay, defenses asserted by Defendant, numerous potential appellate issues, and other risks inherent in litigation.

4. Defendant's Reasons for Settlement.

Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of Defendant's time, energy, and resources have been and, unless this Settlement is completed, will continue to be devoted to, the defense of the claims asserted by Plaintiffs and Settlement Class Members. Defendant has also accounted for the risks of further litigation in reaching their decision to enter into this Settlement. Even though Defendant still contends that it is not liable or jointly and severally liable for any of the claims set forth by Plaintiffs in the Actions, Defendant has agreed, nonetheless, to settle in the manner and upon the terms set forth in this Agreement to put to rest the claims in the Actions. Defendant contends that it has complied with all applicable state, federal, and local laws.

5. Settlement of Disputed Claims.

This Agreement is a compromise of disputed claims. Defendant has claimed and continues

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to claim that the Released Claims have no merit and do not give rise to liability. Plaintiffs have claimed and continue to claim that the Released Claims have merit and give rise to liability on the part of Defendant. Nothing contained in this Agreement, no documents referred to herein, and no action taken to carry out this Agreement, may be construed or used as an admission as to the merits or lack thereof of the claims asserted in the Actions.

III. TERMS OF AGREEMENT

1. Release as To All Participating Class Members.

As of the Effective Date, the Participating Class Members, including Plaintiffs, release the Released Parties from the Released Claims for the Class Period.

2. Release by Plaintiffs on Behalf of the LWDA.

In their capacity as private attorneys general “aggrieved employees” acting on behalf of themselves and as a proxies or agents of the LWDA and State of California, Plaintiffs agree to release Defendant and the Released Parties, from any and all PAGA claims covered by the PAGA Release. Upon approval of this Agreement, Plaintiffs, the LWDA, the State of California, and any other individual or entity acting on behalf of or purporting to act on behalf of the LWDA and/or the State shall be barred from asserting any PAGA Claims covered by the PAGA Release in the Actions or any other pending or future litigation, arbitration, or other legal forum. Settlement Class Members cannot exclude themselves from being included in the PAGA Settlement Group and being subject to the PAGA Release if the court approves the PAGA Settlement.

3. PAGA Release as to All PAGA Settlement Group Members.

As of the Effective Date, Plaintiffs, as proxies for the LWDA and the State of California, and the PAGA Settlement Group members, release the Released Parties from all PAGA claims covered by the PAGA Release.

4. Release of Claims by Plaintiffs.

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As of the Effective Date, Plaintiffs Barajas and Servin only, release the Class Representatives' Released Claims. Plaintiffs may hereafter discover claims or facts in addition to, or different from, those which they now knows or believes to exist, but Plaintiffs expressly agree to fully, finally, and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist on behalf of or against the other at the time of execution of this Agreement, including, but not limited to, any and all claims relating to or arising from Plaintiffs' employment with Defendant.

5. Requests for Exclusion.

Individuals who fall within the definition of the Settlement Class may choose to exclude themselves as a Participating Class Member and request to be excluded from the Class under such procedures specified in Section III.9(e) of this Agreement. Any such persons who exclude themselves from the Class will not receive any Individual Settlement Payment and will not be bound by the Released Claims, except if they are a PAGA Settlement Group member they will be bound by the PAGA Release, and will receive an Individual PAGA Payment. Because the settlement of PAGA claims is not a class action settlement subject to class action procedures, Settlement Class Members cannot exclude themselves from being included in the PAGA Settlement Group and being subject to the PAGA Release if the court approves the PAGA Settlement. PAGA Settlement Group Members will be sent their Individual PAGA Payment regardless of whether they opt out of the Class Settlement and all will be bound by the PAGA Release.

Every Settlement Class Member who does not validly and timely submit a Request for Exclusion shall be deemed a Participating Class Member. The Parties' counsel shall receive a copy of all valid Requests for Exclusion from the Settlement Administrator within five (5) calendar days of the final date to opt out.

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6. Tax Treatment.

All Individual Settlement Payments shall be allocated as follows: 23% as to wages 77% as to penalties and interest. However, the Parties agree that the amount of the Settlement allocated to wages shall not exceed 13.5% of the Total Settlement Amount. The Settlement Administrator will report each payment made from the Qualified Settlement Fund to state and federal government authorities, including the Internal Revenue Service, to the extent required by law. The 23% portion of Individual Settlement Payments subject to required tax withholdings and deductions by the Settlement Administrator shall be reported on Form W-2 (and such other state or local tax reporting forms as may be required by law) with respect to the year of payment as wage income to the Settlement Class Member by the Settlement Administrator on behalf of the Qualified Settlement Fund. The Settlement Administrator shall issue I.R.S. Form 1099 if required for the remaining payments, including any Individual PAGA Payment. Plaintiffs and Settlement Class Members should consult with their tax advisors concerning the tax consequences of any Individual Settlement Payment they may receive under the Settlement.

Settlement Class Members and Class Counsel shall be solely responsible for the reporting and payment of their share of any federal, state, and/or local income tax or other tax or any other withholdings, if any, on any of the payments made pursuant to this Settlement. Defendant makes no representation, and it is understood and agreed that Defendant has made no representation, as to the taxability to any Settlement Class Members of any portion of the Settlement Payments, the payment of any attorneys' fees and expenses to Class Counsel, or the payment of the Class Representatives' Service Award to the Class Representatives. The Notice will advise each Settlement Class Member to seek his/her own personal tax advice prior to acting in response to the Notice.

7. Circular 230 Disclaimer.

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Each Party to this Agreement (for purposes of this section, the “acknowledging party” and each Party to this Agreement other than the acknowledging party, an “other party”) acknowledges and agrees that (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

8. Preliminary Approval of Settlement.

Plaintiffs and their proposed Class Counsel will move the Court to grant Preliminary Approval of this Settlement, certifying the Settlement Class for settlement purposes only and setting a date for a Final Approval Hearing. Class Counsel shall be responsible for preparing the Motion for Preliminary Approval, supporting declarations, and exhibits thereto, for Preliminary Approval by the Court. Plaintiffs and their counsel shall obtain a hearing on a date agreed upon by all counsel, before the Court to request the Preliminary Approval of the Settlement, and the entry of a Preliminary Approval Order prepared jointly by the Parties: (i) preliminarily approving the

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proposed Settlement; (ii) allowing the filing of the proposed Consolidated Complaint; and (iii) setting a date for Final Approval. Class Counsel agrees to provide Counsel for Defendant with drafts of the Motion for Preliminary Approval they intend to submit in support of their Motion for Preliminary Approval in advance of the filing of such documents at least five business days before filing to allow Counsel for Defendant a reasonable time to review and comment on such papers and further agrees to reasonably consider the comments from Counsel for Defendant. All Parties agree to work diligently and cooperatively to have this Settlement presented to the Court for Preliminary Approval.

9. Settlement Administrator.

Within thirty (30) days of the Court granting Preliminary Approval of this Agreement, to the extent possible, Defendant shall provide the Settlement Administrator with the Class Information for purposes of mailing the Notice of Class and Representative Action Settlement to the Settlement Class Members. The Settlement Administrator shall maintain the Class Information as private and confidential and shall not disclose such data to any persons or entities other than Counsel for Defendant, except that relevant information can be provided to Class Counsel if necessary for Class Counsel to respond to inquiries or requests from Settlement Class Members. The Class Information is being supplied solely for purposes of the administration of the Settlement set forth in this Stipulation and cannot be used by the Settlement Administrator or Class Counsel for any other purpose. The Parties agree that the Class Information will not be used to solicit Settlement Class Members to file any claim, charge or complaint of any kind whatsoever against Defendant or any other Released Parties and will only be used to administer the Settlement under the terms provided herein. The restrictions on the use and disclosure of the Class Information shall be deemed, upon entry of the Court's Order granting preliminary approval of this Settlement, to be a protective order entered by the Court subject to full enforcement by the Parties to this

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Agreement and the Court, and by taking on the administration of the Settlement, the Administrator agrees that it and its employees, agents and representatives are bound by such protective orders.

No later than two (2) days after receipt of the Class Information, the Settlement Administrator shall notify counsel for the Parties that the list has been received and state the number of Settlement Class Members on the list.

a. Notice by First Class U.S. Mail and Potential Alternative Notice.

U.S. Mail Notice: Upon receipt of the Class Information, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. Within fifteen (15) days after receiving the Class Information, the Settlement Administrator will mail copies of the Notice of Class and Representative Action Settlement to all Settlement Class Members via regular First-Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Settlement Class Member, including performing a skip-trace to identify any updated addresses. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member. The form of the proposed Notice of Class and Representative Action Settlement is set forth in Exhibit 3 attached hereto, subject to Court approval and modification as necessary to fulfill the Parties desire to resolve the case.

b. Undeliverable Notices.

Any Notice of Class and Representative Action Settlement returned to the Settlement Administrator as undeliverable on or before the Response Deadline shall be re-mailed once to the forwarding address affixed thereto. If no forwarding address is affixed, the Settlement Administrator shall promptly attempt to determine a correct address by use of skip-tracing, or other search using the name, address and/or social security number of the Settlement Class Member

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whose notice was undeliverable, and shall then re-mail all returned, undelivered mail within five (5) days of receiving notice that a notice was undeliverable. Settlement Class Members who receive a re-mailed Notice of Class and Representative Action Settlement shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.

c. Disputes Regarding Individual Settlement Payments.

Settlement Class Members who disagree with the number of Workweeks stated on their Notice of Class and Representative Action Settlement derived from the Class Information may provide documentation and/or an explanation to show contrary information by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine a Participating Class Member's eligibility for, and the amounts of, any Individual Settlement Payment under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment will be binding upon the Settlement Class Members and the Parties, subject to court review. Should any Participating Class Member continue to dispute the Settlement Administrator's determination, the Parties may submit it to this Court for review and resolution. Defendant's records will be given a rebuttable presumption of accuracy.

d. Disputes Regarding Administration of Settlement.

Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties and the Settlement Administrator will confer in good faith to attempt to resolve the dispute without involving the Court.

e. Exclusions.

The Notice of Class and Representative Action Settlement shall state that Settlement Class

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Members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who timely requests to be excluded from the Settlement Class will not be entitled to any recovery under the Settlement and will not be bound by the terms of the Settlement except the PAGA Release, and will not have any right to object to or appeal the settlement.

Settlement Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be Participating Class members and shall be bound by all terms of the Settlement and any Final Judgment entered in this Action.

No later than seven (7) days after the Response Deadline, the Settlement Administrator will provide counsel for the Parties with a complete list of all members of the Settlement Class who have timely submitted a Request for Exclusion.

f. Objections.

The Notice of Class and Representative Action Settlement shall state that Settlement Class Members who wish to object to the Settlement may do so by providing notice in writing to the Settlement Administrator postmarked no later than the Response Deadline objection (“Notice of Objection”). The date of mailing on the envelope shall be deemed the exclusive means for determining that a Notice of Objection was timely received. A Notice of Objection must include: (i) the full name, current mailing address, signature, and last four digits of the Social Security number of the objecting Settlement Class Member; (ii) the case name and number of the Actions; (iii) a statement indicating the legal and factual grounds for the objection; (iv) a statement

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indicating whether the objecting Settlement Class Member is represented by counsel and identifying any such counsel; and (v) a statement indicating whether the objecting Settlement Class Member intends to appear for and wishes to be heard at the Final Approval Hearing. Class Counsel will ensure that any Notice of Objection received by the Settlement Administrator by the Response Deadline is filed with the Court along with the Motion for Final Approval. Any of the Parties may file a response to any objection before the Final Approval Hearing. Objecting Settlement Class Members are not required to file a notice of intent to appear in advance. The Court will consider all oral objections made in person or through counsel at the Final Approval Hearing. Any attorney who will represent an individual objecting to this Settlement must file a notice of appearance with the Court and serve Class Counsel and counsel for Defendant with this notice no later than the Response Period Deadline.

10. No Solicitation of Settlement Objections or Exclusions.

The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or their counsel solicit or otherwise encourage Settlement Class Members to submit either written objections to the Settlement or Requests for Exclusion, or to appeal from the Court's Final Judgment.

11. Funding of the Qualified Settlement Fund.

No later than seven (7) calendar days after the Effective Date, the Settlement Administrator shall send Defendant's Counsel electronic wiring instructions for paying the Total Settlement Amount (\$3,000,000) into the QSF. The Settlement Administrator will also inform Defendant of the amount to be sent to the QSF to pay for the employer's share of payroll taxes in accordance with this Agreement. No later than ten (10) business days after the Effective Date, Defendant shall fund the QSF.

12. Net Settlement Amount.

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The Net Settlement Amount will be determined by the Settlement Administrator by subtracting the Class Counsel Award, Class Representatives’ Service Award, Individual and LWDA PAGA Payments, and Settlement Administrator Costs from the Total Settlement Amount.

The Parties estimate the amount of the Net Settlement Amount to be calculated as follows:

Total Settlement Amount:	\$3,000,000.00
Requested Class Rep. Service Award:	\$20,000.00
Requested Class Counsel Fees:	\$1,050,000.00
Requested Class Counsel Costs:	\$25,000.00
PAGA Payment:	\$150,000.00
Settlement Administrator Costs:	\$16, 950.00
Net Settlement Amount	\$1,738,050.00

This is a non-reversionary Settlement in which Defendant will pay the entire Total Settlement Amount. The employer’s share of payroll taxes, subject to the limit set forth in Section I.41 above, from Individual Settlement Payments shall be paid separately from, and in addition to, the Total Settlement Amount. Any award of less than the amounts requested for Service Awards, administrative costs, litigation costs, or attorneys’ fees will be included in the Net Settlement Amount and distributed to the Settlement Class.

a. Individual Settlement Payments.

Individual Settlement Payments will be paid from the Net Settlement Fund and shall be paid pursuant to the settlement formula as follows: (i) first, using the Class Information, the Settlement Administrator will compute the total number of Workweeks of all Participating Class Members collectively during the Class Period; this sum shall be known as the Workweek total; (ii) second, the Settlement Administrator will divide the Net Settlement Amount by the Workweek

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total to determine the settlement value for each Workweek (the “Workweek Value”); and (iii) third, the Settlement Administrator will multiply the number of Workweeks of a Participating Settlement Class Member during the Class Period by the Workweek Value to determine that Settlement Class Member’s Individual Settlement Payment.

Individual Settlement Payments and Individual PAGA Payments shall be mailed by regular First-Class U.S. Mail to each Participating Class Member’s last known mailing address within ten (10) calendar days after Defendant fully funds the settlement.

b. Individual PAGA Payments.

The Settlement Administrator will allocate the Individual PAGA Payments to members of the PAGA Settlement Group based on the number of Workweeks each member of the PAGA Settlement Group worked during the PAGA Period. Those Workweeks will be divided by the total number of Workweeks for all members of the PAGA Settlement Group, then multiplied by the \$37,500 portion of the PAGA Payment to determine allocations to individual members of the PAGA Settlement Group. The Settlement Administrator shall issue I.R.S. Form 1099 if required for these payments. For Participating Class Members, PAGA Settlement Group payments that are to be paid because the Participating Class Member is a member of the PAGA Group will be paid in one lump sum check with any Individual Settlement Payment.

Individual PAGA Payments shall be mailed by regular First-Class U.S. Mail to each PAGA Settlement Group Member’s last known mailing address at the same time as the Individual Settlement Payments.

13. Unclaimed Payment(s).

Funds attributable to unclaimed, undeliverable, or expired Individual Settlement Payment and/or Individual PAGA Payment checks (“Unclaimed Payments”) shall be deposited to the State of California Unclaimed Property Fund in the name of each Settlement Class Member or PAGA

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Settlement Group Member who did not cash his or her Individual Settlement Payment and/or Individual PAGA Payment check(s) in accordance with California's escheatment laws.

As part of the administration, one hundred (100) days before the Individual Settlement Payment and/or Individual PAGA Payment check(s) expire, the Settlement Administrator shall mail reminder postcards to those Settlement Class Members whose checks were not returned undeliverable and who have not cashed their checks. This will be included in Settlement Administration Costs.

14. Class Representatives' Service Award.

Defendant agrees not to oppose or object to Plaintiffs' application to the Court for Class Representative Service Awards to Estela Barajas and Elvia Servin of up to \$10,000.00 each. The Class Representative Service Awards shall be paid to Plaintiffs from the Total Settlement Amount no later than ten (10) days after Defendant fully funds the settlement. The Class Representative Service Awards shall be in addition to the Plaintiffs' Individual Settlement Payment as a Settlement Class Member. Any amount requested by Plaintiffs for the Class Representative Service Awards and not granted by the Court shall return to the Net Settlement Fund and be distributed to participating Class Members as provided in this Agreement. Part of the consideration for this enhancement is the fact that Plaintiffs are signing a general release with a California Civil Code section 1542 waiver, which is not applicable to any other absent Settlement Class Members.

15. Class Counsel Award.

Defendant agrees not to oppose or object to any application or motion by Class Counsel for attorneys' fees in the amount of up to thirty-five percent (35%) of the Total Settlement Amount (\$1,050,000). Defendant further agrees not to oppose any application or motion by Class Counsel for the reimbursement of reasonable litigation costs and expenses associated with Class Counsel's

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prosecution of this matter, to be paid from the Total Settlement Amount, not to exceed \$25,000.00. Class Counsel shall be paid the Class Counsel Award no later than ten (10) days after Defendant fully funds the settlement. Any amount requested by Class Counsel for the Class Counsel Award and not granted by the Court shall return to the Net Settlement Fund and be distributed to Participating Class Members as provided in this Agreement.

16. Settlement Administrator Costs.

The Parties agree to allocate up to \$16,950.00 of the Total Settlement Amount for Settlement Administrator Costs. The Settlement Administrator shall have the authority and obligation to make payments to Settlement Class Members in the manner set forth herein, calculated in accordance with the methodology set out in this Agreement and orders of the Court. The Parties agree to cooperate in the Settlement administration process and to make reasonable efforts to control and minimize the cost and expenses incurred in administration of the Settlement. The Settlement Administrator shall be paid the Settlement Administrator Costs no later than ten (10) days after Defendant fully funds the settlement.

a. Responsibilities of the Settlement Administrator.

In addition to establishing the Qualified Settlement Fund, the Settlement Administrator shall be responsible for the following: creating a plan of settlement administration and settlement fund distribution; using the data provided by Defendant to calculate each Settlement Class Member's approximate Individual Settlement Payment and Individual PAGA Payment; ascertaining the identity and whereabouts of the Class Members; communicating with Settlement Class Members as necessary; printing and mailing the Notice of Class and Representative Action Settlement to the Settlement Class Members as directed by the Court; receiving and reporting requests for exclusion and objections; processing and mailing payments to Plaintiffs, Class Counsel, Participating Class Members, and the LWDA; notifying the Parties of, and resolving any

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disputes regarding, the calculation of Settlement Class Members' Individual Settlement and Individual PAGA Payment amounts; complying with all tax reporting notice and filing requirements and tax withholding and payment requirements; carrying out all other duties related to the Qualified Settlement Fund's documentation and filing; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; providing status reports as needed, among other administrative duties; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities.

The Settlement Administrator, no later than fourteen (14) days before the date by which the Plaintiffs are required to file the Motion for Final Approval of the Settlement, will provide the 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 a report of the total number of opt-outs, objections, undeliverable notices and re-mailings. The Settlement Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Settlement Administrator's declaration(s) in Court.

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

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17. LWDA and Individual PAGA Payments.

A total amount of \$150,000 from the Total Settlement Amount will be allocated to the PAGA Payment. Seventy-five percent (75%) of this amount, or \$112,500, will be the LWDA PAGA Payment and the remaining twenty-five (25%), or \$37,500.00, will be payable to PAGA Settlement Group members as their Individual PAGA Payment, calculated as set forth in Section III.12(b).

If the Court orders a different amount to be paid for PAGA penalties, that amount shall be paid from the Total Settlement Amount and distributed 75% to the LWDA and 25% to PAGA Settlement Group members as set forth in the Agreement; in no event shall Defendant be required to pay in excess of the Total Settlement Amount.

Class Counsel shall give proper notice to the LWDA of the Settlement by submitting a copy of this Agreement and any other required documents to the LWDA at the same time as they submit this Agreement to the Court for Preliminary Approval, as required by California Labor Code § 2699(l)(2), and shall include evidence of having done so in their Motion for Preliminary Approval of the Settlement. Within ten (10) days following the Final Approval Order, Class Counsel shall submit a copy of the Final Approval Order and Judgment entered by the Court to the LWDA, as required by California Labor Code § 2699(l)(3).

18. Final Approval Hearing and Entry of Final Judgment.

Upon expiration of the Response Deadline, with the Court's permission, a Final Approval Hearing shall be conducted to determine final approval of the Settlement along with the amount properly payable for: (i) the Class Counsel Fee and Cost Award; (ii) the Class Representatives' Service Award; (iii) Individual Settlement Payments; (iv) PAGA penalties and associated payments pursuant to PAGA; and (v) Settlement Administrator Costs.

19. Final Approval Order.

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Plaintiffs will request, and Defendant will concur in said request, that the Court enter, after the Final Approval Hearing, a Final Approval Order and a Final Judgment. Plaintiffs will request that the Final Approval Order certify the Settlement Class; find that this Agreement is fair, just, adequate, and in the best interests of the Class; approve the terms of the Settlement; and require the Parties to carry out the provisions of this Agreement. The Parties shall jointly prepare the proposed Final Approval Order. Plaintiffs' counsel shall be responsible for preparing the Motion for Final Approval, and any Motion Requesting Attorneys' Fees, Costs, and Class Representatives' Service Awards, supporting declarations, and exhibits thereto, for final approval by the Court. Class Counsel agrees to provide Counsel for Defendant with the draft memorandum of points and authorities they intend to submit in support of their Motion for Final Approval and application for attorneys' fees and costs in advance of the filing of such documents at least five business days in advance of filing to allow Counsel for Defendant a reasonable time to review and comment on such memorandum and further agrees to reasonably consider the comments from Counsel for Defendant. The Parties must meet and confer and make all reasonable efforts to agree on any modifications to this Agreement that will result in entry of the Final Approval Order, including a good faith attempt to address and/or cure any issues identified by the Court as necessary for Final Approval.

As part of the Final Approval of the Settlement, Plaintiffs, Participating Class Members, the PAGA Settlement Group and the LWDA shall be enjoined from filing, initiating, or continuing to prosecute any actions, claims, complaints, or proceedings in court, arbitration, with the California Division of Labor Standards Enforcement ("DLSE"), with the LWDA, or with any other entity, with respect to the claims they have released as set forth in this Agreement. This Settlement is conditioned upon the release by Participating Class Members, Plaintiffs, the PAGA Settlement Group, and the LWDA as described in this Agreement, and upon covenants by each of them that

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they will not and cannot bring or participate in any actions, lawsuits, proceedings, complaints, or charges brought individually, by the DLSE, the LWDA, or by any other agency, persons or entity in any court, arbitration or before any administrative body with respect to the claims released as set forth in this Agreement, nor will any of them contest or interfere with efforts by Defendant or by any other Released Parties to oppose any attempt to bring such Released Claims against any of them. Additionally, it is agreed herein that neither injunctive nor declaratory relief, nor any equitable relief, will be ordered by the Court against Defendant in granting final approval of the Settlement, which will otherwise be grounds for Defendant rescinding and terminating this Agreement.

20. Nullification of Settlement Agreement.

In the event: (i) the Court denies with prejudice Preliminary Approval of the Settlement; (ii) the Court denies with prejudice final approval of the Settlement; (iii) the Court refuses to enter a Final Judgment as provided herein; or (iv) the Settlement does not become final for any other reason, the entire Agreement shall be rendered void and the Parties will be restored to their respective positions as if they had not entered into the Agreement. A reduction by the Court or on appeal as to the amount of the Class Representative Service Awards, Class Counsel Award, or Settlement Administrator Costs, is allowed under and does not provide a basis for terminating this Agreement.

To the extent that more than 60 Settlement Class Members submit valid Requests for Exclusion, Defendant has the option to nullify this settlement within ten (10) days of notification by the Settlement Administrator after the Response Deadline of the total number of Requests for Exclusion, via a written notice to Plaintiffs' counsel. If Defendant exercises this option, the Settlement will become void and unenforceable in its entirety and the Parties shall be returned to their status as if this Agreement had not been executed, except that any fees already incurred by

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the Settlement Administrator shall be paid by Defendant.

21. Class Certification.

The Parties are agreeing to class certification for settlement purposes only. This Agreement shall not constitute, in this or any other proceeding, an admission of any kind by Defendant, including without limitation, that certification of a class for trial or any other purpose is appropriate or proper or that Plaintiffs can establish any of the requisite elements for class or representative treatment of any of the claims in these Actions. As part of this purpose, the Parties agree to the filing of the Consolidated Complaint (Exhibit 1) that in effect, consolidates the proposed Class Action and the PAGA Action. Plaintiffs' Motion for Preliminary Approval of the Settlement will request conditional leave to file the Consolidated Complaint solely for purposes of this settlement. If required by the Court, the Parties shall file a joint stipulation to file the Consolidated Complaint along with the Motion for Preliminary Approval prior to a ruling on Plaintiffs' Motion for Preliminary Approval of the Settlement. Should the Court grant Preliminary Approval, the proposed Consolidated Complaint (Exhibit 1) shall be deemed filed and the Parties agree to waive any requirement that Defendant respond to the Consolidated Complaint, unless ordered by the Court.

If, for any reason, the Settlement is not approved, this Agreement will be void and the Parties will be restored to their respective positions as if they had not entered into the Agreement. Specifically, the Consolidated Complaint will be withdrawn and the Parties will ask the *Barajas* and *Servin* Class Action Court to lift the stay, such that the Parties will return to the status quo before the Settlement. The Parties further agree that this Agreement will not be admissible in this or any other proceeding as evidence that either (i) a class action should be certified or not decertified, or that this matter may proceed as a representative action; or (ii) Defendant is liable to Plaintiffs or any Settlement Class Member other than according to the Settlement's terms. In the

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event that the Settlement is not approved or otherwise voided, Defendant expressly reserves all rights to challenge certification of a class, or Plaintiffs' ability to maintain a representative action, for all purposes.

22. Confidentiality Provision

The Parties and their Counsel agree to keep the facts and terms of this Settlement confidential until approval of the Settlement is sought from the Court. Thereafter, the Parties and their Counsel agree that they will not issue a press release or hold any press conferences or initiate contact with a member of the press, including on social media, about this case and/or the fact, amount or terms of the Settlement. If the Parties are contacted by the press about the Settlement, they will respond only that the case has been resolved. Nothing in this paragraph shall prevent Class Counsel from communicating with the Class Members, the LWDA, or the court in which the Action is pending, as may be required to carry out the terms of this Settlement and/or fulfill their ethical responsibilities under the Settlement and to their respective clients.

23. No Effect on Employee Benefits.

Amounts paid to Plaintiffs or other Settlement Class Members pursuant to this Agreement shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.), if any, of Plaintiffs or Settlement Class Members.

24. No Admission by Defendant.

Defendant denies any and all claims alleged in these Actions and denies all wrongdoing whatsoever. This Agreement is not a concession or admission of any wrongdoing and shall not be used against Defendant as an admission or indication of any wrongdoing with respect to any claim of any fault, concession, or omission by Defendant.

25. Representation.

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Class Counsel represent that they do not currently represent any current or former employees who work or worked for Defendant in connection with any other filed or anticipated claims, charges, grievances, or complaints against Defendant or other Released Parties. Class Counsel also represent that Class Counsel have not used any information obtained in the Actions to solicit or assist any other persons or attorneys to commence a claim or proceeding against Defendant.

The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel, and reviewed in full.

26. Exhibits and Headings.

The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

27. Interim Stay of Proceedings and Dismissal of Federal Action.

Upon full execution of this Agreement, the Parties agree that based upon Code of Civil Procedure section 583.310 (“the 5-year rule”), the Actions shall be stayed in their entirety except for the proceedings necessary to implement and complete the Settlement. In the event the Court preliminarily and finally approves the Settlement Agreement in this action, the *Barajas* and *Servin* Class Actions shall be dismissed with prejudice as to Plaintiffs and the Settlement Class certified by the Court. At such time, should Final Approval be granted, all jurisdiction of this combined action as set forth in the proposed Consolidated Complaint (Exhibit 1) shall remain with the Superior Court of Napa County in the State of California for final supervision and any intervenors,

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objections, and appeals as it is the Parties' intention that upon Final Approval, if granted, this matter should be kept within a single court's jurisdiction and not burden two courts with continued obligation to monitor or manage the action.

28. Amendment or Modification.

This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest. The Parties agree in good faith to make necessary amendments as indicated by the Court to fulfill the intent to resolve this case in full, absent a directive that materially contravenes that purpose.

29. Entire Agreement.

This Agreement and all attached Exhibits constitute the entire Agreement among these Parties, and no oral or written representations, warranties, or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties, and covenants contained and memorialized in the Agreement and its Exhibits. The Parties are entering into this Agreement based solely on the representations and warranties herein and not based on any promises, representation, and/or warranties not found herein.

30. Authorization to Enter into Settlement Agreement.

Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of

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the Court to resolve such disagreement. The persons signing this Agreement on behalf of Defendant represent and warrant that they are authorized to sign this Agreement on behalf of Defendant. Plaintiffs represents and warrant that they are authorized to sign this Agreement and that they have not assigned any claim, or part of a claim, covered by this Settlement to a third party.

31. Binding on Successors and Assigns.

This Agreement shall be binding upon, and inure to the benefit of, the successors **or** assigns of the Parties hereto, as previously defined.

32. California Law Governs.

All terms of this Agreement and the Exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

33. Counterparts.

This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

34. Jurisdiction of the Court.

Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

35. Arbitrations

This Settlement Agreement shall not supersede or affect the validity of any arbitration agreements and/or release agreements applicable to Plaintiffs or any Settlement Class Member,

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except that Settlement Class Members can be Participating Class Members notwithstanding any arbitration agreement. Defendant reserves the ability to compel arbitration of any arbitrable claim as to Plaintiffs or Settlement Class Members subject to an enforceable arbitration agreement should the Settlement not be finally approved, and as to any claims not released by the Settlement.

36. Invalidity of Any Provision.

Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

WHEREFORE, Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendant have executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

Dated: 09 / 09 / 2024

By: ESTELA B.
ESTELA BARAJAS DE BOTELLO,
Individually and as Class Representative

Dated: _____

By: _____
ELVIA SERVIN, Individually and as Class Representative

Dated: October 1, 2024

WESTLAKE ROYAL STONE LLC

By: DocuSigned by: Scott Szwejbka
CC189951C818472...
Print Name: Scott Szwejbka

Title: VP of Royal Buliding Products - Exteriors

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APPROVED AS TO FORM:

Dated: September 9, 2024

**SCHNEIDER WALLACE COTTRELL
KONECKY LLP**

By: 

Carolyn H. Cottrell
Philippe M.J. Gaudard
Attorneys for Estela Barajas de Botello and the
Proposed Class

Dated: _____

MAHONEY LAW GROUP, APC

By: _____
Kevin Mahoney
Raleigh Dixon
Attorneys for Plaintiff Elvia Servin and the
Proposed Class

Dated: October 3, 2024

MORGAN, LEWIS & BOCKIUS LLP

By:  

Jean S. Battenfeld
Jennifer B. Zargarof
Tuyet T. Nguyen Lu

Attorneys for Defendant Westlake Royal Stone
LLC, formerly known as Boral Stone Products
LLC

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except that Settlement Class Members can be Participating Class Members notwithstanding any arbitration agreement. Defendant reserves the ability to compel arbitration of any arbitrable claim as to Plaintiffs or Settlement Class Members subject to an enforceable arbitration agreement should the Settlement not be finally approved, and as to any claims not released by the Settlement.

36. Invalidity of Any Provision.

Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

WHEREFORE, Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendant have executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

Dated: 09 / 09 / 2024

By: ESTELA B.
ESTELA BARAJAS DE BOTELLO,
Individually and as Class Representative

Dated: 09 / 20 / 2024

By: Elvia Servin
ELVIA SERVIN, Individually and as Class
Representative

Dated: _____

WESTLAKE ROYAL STONE LLC

By: _____

Print Name: _____

Title: _____

**CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT
AND RELEASE**

APPROVED AS TO FORM:

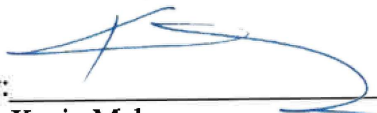
Dated: September 9, 2024

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