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48FORTY SOLUTIONS, LLC and MATT MALLORY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RVIERSIDE

ROBERT BENNET, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

48FORTY SOLUTIONS, LLC, a Delaware
corporation; MATT MALLORY, an
individual; and DOES 1 through 100,
Inclusive,

Defendants.

CASE NO.: CVRI2201011

[Assigned for All Purposes to Hon. Harold
Hopp, Dept. 1]

STIPULATION FOR SETTLEMENT AND RELEASE OF CLASS ACTION AND PAGA CLAIMS

1 **STIPULATION FOR SETTLEMENT AND RELEASE OF CLASS ACTION**

2 **AND PAGA CLAIMS**

3 This Stipulation for Settlement and Release of Class Action and PAGA Claims (the
4 “**Settlement Agreement**” or “**Agreement**”) is made and entered into by and between Plaintiff
5 ROBERT BENNET (“**Plaintiff**” or “**Class Representative**”), on his own behalf and as a proposed
6 representative on behalf of the Class to be certified pursuant to this Settlement Agreement (as
7 described in Paragraph 6, below) and each of the members of the Class (each, individually, a “**Class**
8 **Member**” and, collectively, “**Class Members**”), as well as on behalf of the California Labor and
9 Workforce Development Agency (“**LWDA**”), on the one hand, and Defendant 48FORTY
10 SOLUTIONS, LLC (“**Defendant**”), on the other hand, in *Robert Bennet v. 48forty Solutions, LLC,*
11 *et al.*, Superior Court of the State of California for the County of Riverside, Case No. CVRI2201011
12 (the “**Action**”).

13 This Settlement Agreement is subject to the terms and conditions herein and the approval
14 of the Court. For purposes of this Settlement Agreement, Plaintiff and Defendant are each referred
15 to individually as a “**Party**” and collectively as the “**Parties**.”

16 **SETTLEMENT AMOUNT**

17 As described in detail hereafter, and pursuant to all of the terms and conditions set forth in
18 this Settlement Agreement, Defendant shall pay the total amount of One Million Nine Hundred and
19 Fifty Thousand Dollars (\$1,950,000.00) (the “**Gross Settlement Fund**,” “**GSF**,” or “**Settlement**
20 **Fund**”), to resolve all of the claims being released herein, as set forth in detail hereafter. In no
21 event shall Defendant be obligated to pay greater than the GSF amount to settle the Action, except
22 that Defendant shall pay any and all employer-side payroll taxes due and payable as a result of the
23 Wages Portion of the Individual Settlement Payments separate and apart from the GSF. This
24 Settlement Agreement is not subject to any reversion of funds to Defendant, such that the entire
25 settlement amount will be payable if the settlement becomes Final as defined herein, and any
26 amounts not received via mail by any Class Members will be transmitted by the Settlement
27 Administrator pursuant to governing law to the California Unclaimed Property fund to be held there
28 for the benefit of such Class Members under California’s escheatment laws.

BACKGROUND AND RECITALS

1. On March 1, 2022, Plaintiff filed with the LWDA and served on Defendant a notice under Labor Code § 2699.3 stating he intended to serve as a proxy of the LWDA to recover civil penalties on behalf of “Aggrieved Employees” (as described in Paragraph 17 below) for various alleged violations of the California Labor Code and applicable California Industrial Welfare Commission (“IWC”) Wage Orders (the “**PAGA Notice**”).

2. On March 11, 2022, Plaintiff commenced this action by filing a Class Action Complaint against Defendant and Matt Mallory (“Mallory”), which alleged eight (8) claims under the California Labor Code and Cal. Bus. & Prof. Code § 17200 *et seq.*, premised on alleged violations of the California Labor Code and applicable Industrial Welfare Commission (“IWC”) Wage Orders on behalf of Plaintiff and other current and former non-exempt employees of Defendant. On July 11, 2022, Plaintiff filed a First Amended Class Action Complaint (the “**FAC**”), which added a ninth claim pursuant to which Plaintiff seeks civil penalties under the Labor Code Private Attorneys General Act of 2004, Lab. Code § 2698, *et seq.* (“**PAGA**”). The FAC is the operative complaint in the Action.

3. The claims alleged in the FAC and the PAGA Notice include, but are not limited to, claims for (1) failure to pay overtime wages, (2) failure to pay minimum wage, (3) failure to pay meal period compensation, (4) failure to pay rest period compensation, (5) failure to furnish accurate wage statements, (6) failure to pay wages upon discharge, (7) failure to indemnify, (8) unfair competition, and (9) for civil penalties under PAGA pursuant to Lab. Code §§ 2699 and 2699.3 for alleged violations of Lab. Code §§ 201–203, 204, 210, 216, 218.6, 221, 226, 226.3, 226.7, 226.8, 246, 432.5, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2802 and the applicable IWC Wage Orders.

4. On March 31, 2023, the Parties participated in an all-day mediation presided over by Michael Dickstein, an experienced wage and hour mediator, which resulted in a classwide settlement of Plaintiff’s putative class and PAGA representative action claims in the Action (the “**Settlement**”). Following that mediation, the Parties entered into a Memorandum of Understanding (the “**MOU**”) setting forth material terms of the Parties’ Settlement.

1 5. Prior to negotiating the Settlement, Plaintiff obtained, through informal discovery,
2 documents and information, including, *inter alia*, timekeeping and payroll data regarding
3 Settlement Class Members and Aggrieved Employees.

4 6. For purposes of this Settlement Agreement only, “Class” or “Settlement Class”
5 consists of: All current and former hourly and/or non-exempt employees employed by Defendant
6 and working in California at any time during the time period from March 11, 2018 through and
7 including the date the Court grants preliminary approval of this Settlement Agreement (the
8 “Settlement Period”). To the extent any applicable statute(s) of limitations would otherwise limit
9 the Settlement Period in whole or in part, Defendant waives its application solely for purposes of
10 effectuating this settlement.

11 7. Other Pending Matters. The Parties represent that they are aware of the following
12 later-filed, pending matter asserting claims that will be extinguished or affected by the Settlement:
13 *Fatai Orhorhaghe v. 48Forty Solutions, LLC*, Superior Court of the State of California for the
14 County of Riverside, Case No. CVRI2201011, filed December 20, 2022 [putative class action],
15 which was originally assigned to and pending before Judge Harold W. Hopp in Department 1.

16 8. No Admission of Liability by Defendant. Defendant denies any liability or
17 wrongdoing of any kind associated with the Action and the claims being released herein, and
18 Defendant contends that it has complied at all times with all applicable California laws. A statement
19 to this effect will be included in the notice sent to Class Members. Neither this Settlement
20 Agreement nor any exhibit hereto, nor any other document pertaining to the settlement
21 contemplated herein, may be offered in any other case or proceeding as evidence of any admission
22 by Defendant of any liability on any claims for damages or other relief. Any stipulation or
23 admission by Defendant contained herein is made for settlement purposes only.

24 9. Nevertheless, in the interest of avoiding the costs and disruption of ongoing
25 litigation and resolving the claims asserted in the Action, the Parties believe that the Settlement
26 negotiated between them and set forth in this Settlement Agreement is fair, reasonable, and
27 adequate.
28

10. It is the desire of Plaintiff, on his own behalf and on behalf of the Class Members, as well as on behalf of the LWDA with respect to those claims asserted under PAGA, to fully, finally, and forever settle, compromise, and discharge the claims set forth in Paragraphs 37 and 38 of this Settlement Agreement, as applicable.

TERMS OF THE SETTLEMENT

11. Stipulation for Conditional Class Certification: The Parties stipulate and agree to the conditional certification of the Settlement Class for purposes of this Settlement Agreement only. Should, for whatever reason, the Settlement set forth in this Settlement Agreement not become final, the Parties' stipulation to such class certification as part of this settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not certification would be appropriate in a non-settlement context. Defendant expressly reserves its rights and declares that, to the extent Plaintiff may otherwise be permitted to seek class certification, Defendant intends to oppose class certification vigorously should this settlement not become final and putative class action claims are allowed to be pursued in the Action or any other action or proceeding.

12. Establishment of the Settlement Fund: This settlement is being made on a non-reversionary basis, such that Defendant will pay the entirety of the agreed upon total Gross Settlement Fund.

13. The payment by Defendant of the total Gross Settlement Fund pursuant to this Settlement Agreement shall settle and forever resolve all of the Released Class and PAGA Claims (as defined below), and will include all payments to Participating Class Members (as defined below), Aggrieved Employees (as defined below), and government taxing authorities (to the extent applicable), as well as (a) the costs of administration of the Settlement, (b) all claimed and/or awarded attorneys' fees and costs, (c) the claimed and/or awarded enhancement award to the Class Representative, and (d) all payments to be made to the LWDA pursuant to PAGA. Specifically excluded from the Gross Settlement Fund are employer-side payroll taxes associated with the Wages Portion of the payments made to Participating Class Members pursuant to this Settlement Agreement (as applicable). The settlement payments are not being made for any other purpose and

1 will not be construed as “compensation” for purposes of determining eligibility for any health and
2 welfare benefits, unemployment compensation, or other compensation or benefits provided by
3 Defendant. In addition, no individual receiving a payment based on this Settlement shall be entitled
4 to any additional or increased health, welfare, retirement, or other benefits as a result of their
5 participation in the Settlement and/or receipt of payment under this Settlement.

6 14. Calculation of Net Settlement Fund: The total sum from which Participating Class
7 Members will be paid (the “**Net Settlement Fund**” or “**NSF**”) shall be the Gross Settlement Fund
8 less the following: Settlement Administration Costs, the PAGA Amount (as defined below),
9 Attorneys’ Fees and Costs, and the Enhancement Award. The remaining sum after all these
10 deductions shall be the NSF, which will be used to calculate the settlement share that each
11 Participating Class Member will receive if this settlement becomes Final (as defined below).

12 15. Effective Date: This Settlement Agreement shall become effective when the
13 settlement is considered to be Final. For purposes of this Settlement Agreement, “**Final Approval**”
14 means the Court’s determination that the Settlement is fair, reasonable, and adequate, granting of
15 final approval of the Settlement, and entry of judgment based thereon, and “**Final Approval**
16 **Order**” means the Court’s order determining the Settlement to be fair, reasonable, and adequate
17 and granting final approval of the Settlement and judgment based thereon. For purposes of this
18 Settlement Agreement, “**Effective Date**” and “**Final**” means the date by when both of the following
19 have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the
20 Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following
21 occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters
22 Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after
23 the deadline for filing a notice of appeal from the Judgment, or if a timely appeal from the Judgment
24 is filed, the day after the appellate court affirms the Judgment and issues a remittitur. In the event
25 that the Court fails to approve the Settlement, or if the appropriate appellate court fails to approve
26 the Settlement (1) this Settlement Agreement shall have no force and effect and the Parties shall be
27 restored to their respective positions prior to entering into it, and no Party shall be bound by any of
28 the terms of the Settlement Agreement; (2) Defendant shall have no obligation to make any

1 payments to the LWDA, Aggrieved Employees, Class Members, Plaintiff, or Plaintiff's Counsel;
2 and (3) any preliminary approval order and/or Final Approval Order shall be vacated.

3 16. Mediation and Settlement Communications: The Settlement Agreement and all
4 negotiations, statements, proceedings, and data relating thereto shall be deemed confidential
5 mediation settlement communications and not subject to disclosure for any purpose in any
6 proceeding, except only as required to obtain approval of and implement this Settlement and/or to
7 enforce this Settlement after Final Approval thereof is granted by the Court.

8 17. PAGA Settlement: The amount of One Hundred and Ninety Five Thousand Dollars
9 (\$195,000.00) out of the GSF shall be allocated to civil penalties under PAGA (the "**PAGA**
10 **Amount**"), subject to the Court's final approval, of which 75% of that amount will be paid to the
11 LWDA out of the GSF (the "**LWDA Payment**"), and the remaining 25% will be distributed to the
12 "Aggrieved Employees" (the "**Aggrieved Employee Payment(s)**"), subject to the further terms of
13 this Agreement, below. For purposes of this Settlement, "**Aggrieved Employee(s)**" shall mean and
14 include Class Members who worked for Defendant at any time during the time period from March
15 11, 2021 through and including the date the Court grants Final Approval of this Settlement
16 Agreement (the "**PAGA Period**").

17 18. Attorneys' Fees and Costs: "**Class Counsel**" or "**Plaintiff's Counsel**" means
18 Daniel Srourian, Esq. of Srourian Law Firm, P.C. Subject to approval of the Court, Plaintiff's
19 Counsel shall be appointed as counsel for the Class for purposes of this settlement, and may apply
20 for an award of attorneys' fees and costs and expenses incurred in connection with the prosecution
21 of this matter, and all of the work remaining to be performed by Class Counsel in documenting the
22 Settlement, securing Court approval of the Settlement (including any and all related appellate
23 work), carrying out their duties to see that the Settlement is fairly administered and implemented,
24 and obtaining entry of the final judgment approving this Settlement, in an amount of up to one-
25 third (1/3) of the GSF for attorneys' fees (which is currently estimated to be \$649,935.00) and in
26 an amount of not more than \$30,000.00 for reimbursement of reasonable costs and expenses
27 (together, "**Attorneys' Fees and Costs**"). Amounts awarded by the Court for Attorneys' Fees and
28 Costs shall be paid from the GSF.

1 19. Enhancement Award: Subject to approval by the Court, Plaintiff shall be appointed
2 as a representative of the Class, and he may seek an award in the amount of up to Ten Thousand
3 Dollars (\$10,000.00) in consideration for serving as a representative of the Class (the
4 “**Enhancement Award**”). The Enhancement Award is in addition to the Individual Settlement
5 Share to which Plaintiff is otherwise entitled as a Settlement Class Member and the Aggrieved
6 Employee Payment to which Plaintiff is otherwise entitled as an Aggrieved Employee.

7 20. Plaintiff acknowledges and understands that the Court may only approve an
8 Enhancement Award to him in an amount that is only a fraction of that set forth above, which will
9 not be known until such time that the Court decides whether to grant Final Approval of the
10 Settlement and even if the Court otherwise grants preliminary approval of the Settlement. In the
11 event lesser sums are awarded for Attorneys’ Fees and Costs than those referenced in Paragraph 18
12 or for the Enhancement Award referenced in Paragraph 19, the approval by the Court of any such
13 lesser sum(s) shall not be grounds for Plaintiff and/or Class Counsel to terminate the Settlement,
14 but such an order shall be appealable by them. In the event that such an appeal is filed,
15 administration of the Settlement shall be stayed pending resolution of the appeal. Thereafter, if
16 after the exhaustion of such appellate review, any additional amounts remain that are distributable
17 to the Participating Class Members, the cost of administration of such additional payments will be
18 paid out of such additional amounts and will not be chargeable to or payable by Defendant. Any
19 amount not awarded for Attorneys’ Fees and Costs or the Enhancement Award, but which is not
20 challenged via appeal by Plaintiff and/or Class Counsel, shall be added to the NSF and distributed
21 to the Participating Class Members in accordance with the terms of this Settlement Agreement.

22 21. Costs of Administration: Subject to Court approval, the Parties designate Simpluris,
23 Inc. to administer the Settlement (the “**Settlement Administrator**”), with a preliminary budget to
24 administer the Settlement for fees and costs of up to \$30,000 (the “**Settlement Administration**
25 **Costs**”). The Settlement Administrator’s duties of administration shall include, without limitation,
26 receiving the Class List to be produced by Defendant and updating it prior to the Notice being
27 mailed, printing and mailing the Notice in both English and Spanish, performing necessary
28 additional skip traces on Notices and/or checks returned as undeliverable, calculating Class

Members' estimated and final shares of the NSF, preparing and mailing of settlement checks, establishing a settlement website as described hereafter, responding to Class Member inquiries as appropriate, preparing any appropriate tax forms in connection with the settlement payments and remitting those forms and any required payments to the appropriate governmental agencies, and generally performing all normal and customary duties associated with the administration of such settlements. All fees and costs for the Settlement Administrator's services will be paid out of the GSF. The Settlement Administrator will coordinate the calculations of any necessary payroll taxes and deductions with Defendant to ensure that, to the extent such taxes and deductions are or could be deemed to have been made by the Settlement Administrator on behalf of Defendant by government taxing authorities, they are made in compliance with Defendant's tax withholding and remittance obligations for such payments.

22. No Claim Form Required: Only Participating Class Members shall share in the NSF referred to in Paragraph 14, as set forth in more detail in Paragraph 24 hereafter. Participating Class Members shall not be required to complete a claim form. Class Members will be mailed a Notice of Class Action Settlement (the "**Notice**"), in substantially the form attached hereto as **Exhibit A**, subject to approval by the Court, informing them of the terms of the Settlement and providing them with an estimate of their share of the NSF. Class Members who do not timely and properly elect to opt out of the Settlement ("**Participating Class Member(s)**") will be mailed a check representing their payment under the Settlement, in accordance with the terms of this Settlement Agreement.

23. Class Composition: The Parties engaged the services of a data analytics consulting firm to apprise themselves of the estimated size and membership of the Class. The Parties estimate that there are approximately 846 Class Members who collectively worked a total of approximately 36,081 workweeks from March 11, 2018 to approximately March 31, 2023. Should the qualifying workweeks during the Settlement Period increase beyond ten percent (10%) (*i.e.*, more than 39,690 workweeks), Defendant may, at its option, either: (1) increase the GSF on a pro-rata basis equal to the percentage increase in the number of workweeks worked by Class Members above ten percent (10%), or (b) set an end date to the Settlement Period which results in the number of workweeks

1 worked by the Class Members increasing by 10% or less.

2 24. Calculation of Participating Class Members' Shares of the Net Settlement Fund:

3 Defendant shall calculate and provide to the Settlement Administrator, from Defendant's records
4 as reflected on the Class List (as defined below), the number of workweeks that a Class Member
5 worked during the Settlement Period, based on payroll and time records, hire dates, re-hire dates
6 (as applicable), leave of absence dates, and termination dates (as applicable) ("**Workweeks**"). Each
7 Class Member's share of the NSF (the "**Individual Settlement Share(s)**") will be calculated
8 initially for purposes of mailing the Notice by a pro rata share of the NSF based on the number of
9 Workweeks that they actually performed work for Defendant during the Settlement Period. Each
10 Participating Class Member's final Individual Settlement Share for purposes of payment will be
11 calculated by a pro rata share of the NSF based on the number of Workweeks that they actually
12 performed work for Defendant during the Settlement Period. The dollar amount of any Individual
13 Settlement Shares of Class Members who timely and properly opt-out of participating in the
14 settlement will be added to the NSF and distributed to the Participating Class Members in
15 accordance with the terms of this Settlement Agreement.

16 25. Calculation of Aggrieved Employees' Shares of the Aggrieved Employee Payment:

17 Defendant shall calculate and provide to the Settlement Administrator, from Defendant's records
18 as reflected on the Class List (as defined below), the number pay periods that a Class Member
19 actually worked for Defendant during the PAGA Period, based on payroll and time records, hire
20 dates, re-hire dates (as applicable), leave of absence dates, and termination dates (as applicable)
21 (the "**PAGA Pay Periods**"). Aggrieved Employees will receive their pro rata share of the
22 Aggrieved Employee Payment of the PAGA Amount based on the number of PAGA Pay Periods
23 they actually worked during the PAGA Period, regardless of whether they submit a timely and valid
24 Request for Exclusion from the Settlement Agreement. Based on a review of Defendant's records
25 to date, the Parties have also estimated there are 595 Aggrieved Employees who worked a total of
26 14,659 PAGA Pay Periods from the start of the PAGA Period to approximately March 31, 2023.

27 26. Right to Opt Out, Object, and/or Dispute Pay Periods: The Notice will be mailed to
28 all Class Members and will advise each Class Member of their right to opt out of the Settlement

1 Agreement, object to all or any part of the Settlement Agreement, and/or dispute the number of
2 Workweeks credited to them. Any Class Member who wishes to opt out of the Settlement
3 Agreement as to the proposed class action settlement, object to the Settlement Agreement as to the
4 proposed class action settlement, and/or dispute the number of Workweeks credited to them for
5 purposes of the proposed class action settlement, must do so in writing to the Settlement
6 Administrator postmarked no later than forty-five (45) calendar days from the date of mailing of
7 the Notice to the Class Members (the “**Response Deadline**”). However, there is no right to opt
8 out of or object to the PAGA settlement under this Settlement Agreement, and any Class Member
9 who opts out of the Settlement Agreement for purposes of the proposed class action settlement will
10 still be bound by the release of PAGA claims set forth in Paragraph 38, below.

11 27. Opting Out of the Proposed Class Action Settlement: A request to opt out of and be
12 excluded from the proposed class action settlement under this Settlement Agreement (a “**Request**
13 **for Exclusion**”) must include (i) the full name, current mailing address, telephone number,
14 signature, and last four digits of the Social Security number of the Class Member seeking exclusion;
15 (ii) the case name and number of the Action, and (iii) be dated. In the event that five percent (5%)
16 or more of the Class Members submit a timely and valid Request for Exclusion, Defendant will
17 have the option to rescind and terminate the Settlement either in whole or as to the class action
18 claims only, resulting in the Parties otherwise returning to their pre-settlement positions in the
19 Action. Should the five percent (5%) threshold for opt outs be exceeded, the Settlement
20 Administrator shall notify lead counsel for all Parties via email immediately, and Defendant shall
21 have fifteen (15) calendar days from the date of the Settlement Administrator’s email to exercise
22 its option to rescind and terminate the Settlement as referenced in this Paragraph. Defendant,
23 however, shall pay all Settlement Administration Costs incurred by the Settlement Administrator
24 up to the date of Defendant’s notice to rescind.

25 28. Objecting to the Proposed Class Action Settlement: An objection to the proposed
26 class action settlement under this Settlement Agreement (an “**Objection**”) must include: (i) the full
27 name, current mailing address, signature, and last four digits of the Social Security number of the
28 objecting Class Member; (ii) the case name and number of the Action; (iii) a statement indicating

1 the legal and factual grounds for the objection; (iv) a statement indicating whether the objecting
2 Class Member is represented by counsel and identifying any such counsel; and (v) a statement
3 indicating whether the objecting Class Member intends to appear at the Final Approval Hearing.

4 29. Disputing Workweeks: A Class Member's dispute of the number of Workweeks
5 credited to them and used to calculate the Class Member's Individual Settlement Share for purposes
6 of the proposed class action settlement under this Settlement Agreement (a "**Workweeks Dispute**")
7 must include: (i) the full name, current mailing address, telephone number, signature, and last four
8 digits of the Social Security number of the disputing Class Member; (ii) the case name and number
9 of the Action; (iii) a statement indicating that the Class Member seeks to dispute the number of
10 Workweeks credited to them, the time period(s) the Class Member performed work for Defendant
11 in a non-exempt position in California during the Settlement Period, and the number of Workweeks
12 that the Class Member contends should be credited to them; and (iv) documentation and/or other
13 facts supporting the Class Member's position. In response to any timely Workweeks Dispute,
14 Defendant will first verify the information contained in the disputing Class Member's personnel
15 file and Defendant's payroll records. Unless the Class Member can establish that the number of
16 Workweeks credited to them is incorrect, by providing documentation in support thereof or other
17 details to substantiate their position, the total number of Workweeks established by Defendant's
18 records will control. Class Counsel and Defendant's Counsel will then make a good faith effort to
19 resolve the dispute informally before the Final Approval Hearing. If counsel for the Parties cannot
20 agree, the dispute shall be resolved by the Settlement Administrator before the Final Approval
21 Hearing, who shall examine the records provided by the Defendant and the Class Member and shall
22 be the final arbiter of disputes relating to a Class Member's Workweeks for purposes of
23 administering notice of the Settlement, subject to final review, determination, and approval by the
24 Court.

25 30. Funding of Settlement: Within five (5) courts days after the Court granting Final
26 Approval, the Settlement Administrator will provide Defendant with wire transfer information and
27 the amount of Defendant's share of payroll taxes. Within fifteen (15) court days following the
28 occurrence of the Effective Date of the Settlement as defined above, Defendant shall transfer the

1 GSF in the amount of One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000.00) to a
2 Qualified Settlement Fund account (the “**Settlement Account**”) established by the Settlement
3 Administrator along with the amounts necessary to fully pay Defendant’s share of payroll taxes.
4 Thereafter, the Settlement Administrator shall distribute the funds as soon as is practical in
5 accordance with the terms of this Settlement Agreement and as ordered by the Court. No funds
6 will be payable by Defendant prior to that time.

7 31. Payment Procedures: Within ten (10) court days after Defendant deposits the GSF
8 into the Settlement Account created by the Settlement Administrator, the Settlement Administrator
9 shall distribute payment of the approved Individual Settlement Shares to Participating Class
10 Members (as provided in Paragraph 24), the Aggrieved Employee PAGA Payments to Aggrieved
11 Employees (as provided in Paragraphs 17 and 25), Attorneys’ Fees and Costs to Class Counsel, the
12 Enhancement Award to the Class Representative, the LWDA Payment to the LWDA, and the
13 Settlement Administration Costs to the Settlement Administrator, in accordance with this
14 Settlement Agreement and as ordered by the Court.

15 32. Tax Treatment of Settlement Payments: Each Individual Settlement Share will be
16 allocated 20% for wages inclusive of all types of applicable employee-paid payroll withholdings
17 and taxes (the “**Wages Portion**”) and 80% for civil or statutory penalties, statutory and other non-
18 wage damages, and interest (collectively, the “**Non-Wages Portion**”). Each Aggrieved Employee
19 Payment will be allocated 100% as civil penalties, which will be reported on IRS Form 1099 (if
20 applicable).

21 a. Prior to distribution, Individual Settlement Shares will be subject to
22 adjustment and/or reduction for required payroll taxes, contributions, and withholdings with respect
23 to the Wages Portion, resulting in a net payment which is referred to as the “**Individual Settlement**
24 **Payment.**” The Settlement Administrator will be responsible for appropriate payroll tax
25 deductions.

26 b. Each recipient of any monies paid in accordance with this Settlement
27 Agreement is responsible for any taxes associated with the monies received by each recipient. The
28

1 Settlement Administrator (and not Defendant) will remit all federal and state taxes owed by
2 Defendant and will issue W2s and 1099s on all funds distributed.

3 c. The Settlement Administrator (and not Defendant) will prepare and issue a
4 IRS Form W-2 to Participating Class Members with respect to the Wages Portion of each Individual
5 Settlement Payment. Where otherwise required by state or federal tax requirements, the Settlement
6 Administrator (and not Defendant) will prepare a Form 1099 for Participating Class Members for
7 the Non-Wages Portion of their Individual Settlement Shares and/or Aggrieved Employees for their
8 Aggrieved Employee Payments. The Settlement Administrator will be responsible for preparing
9 and issuing these forms timely and correctly. Participating Class Members and Aggrieved
10 Employees will be responsible for correctly characterizing the compensation that they receive
11 pursuant to this Settlement Agreement, including as set forth on any IRS Form W-2 or IRS Form
12 1099 they receive from the Settlement Administrator, and for payment of any taxes owing on said
13 amounts.

14 d. The Parties acknowledge and agree that neither they nor their attorneys have
15 made any representations regarding the tax consequences of any and all payments made under this
16 Settlement Agreement. Participating Class Members and Aggrieved Employees will be required
17 to pay all federal, state, or local taxes, if any, which are required by law to be paid with respect to
18 any and all payments made to them under the Settlement. The Parties further agree that Defendant
19 shall have no legal obligation to pay, on behalf of Participating Class Members or Aggrieved
20 Employees, any taxes, deficiencies, levies, assessments, fines, penalties, interest or costs, which
21 may be required to be paid with respect to the settlement payments.

22 33. Tax Treatment of Enhancement Award and Class Counsel's Award of Attorneys'
23 Fees and Costs: The Class Representative and Class Counsel will receive an IRS Form 1099 for
24 the Class Representative's Enhancement Award and Class Counsel's award of Attorneys' Fees and
25 Costs, which will be prepared by the Settlement Administrator. The Class Representative and Class
26 Counsel will be solely responsible for correctly characterizing this compensation for tax purposes
27 and for payment of any taxes owing on said amounts. Prior to receiving the payments specified
28 herein, the Class Representative and Class Counsel each shall deliver to the Settlement

1 Administrator any necessary tax forms requested by the Settlement Administrator.

2 34. Undistributed Funds: Individual Settlement Payment checks will remain valid and
3 negotiable for one hundred and eighty (180) days after the date of issuance. If an Individual
4 Settlement Payment check is returned before the expiration of the 180-day period (“**Returned**
5 **Check**”), then within five (5) days of receipt of the Returned Check, the Settlement Administrator
6 shall undertake a skip-trace search for an alternate mailing address and re-mail the Returned Check
7 to an alternate mailing address (if one is located), under a cover letter indicating that the Returned
8 Check will continue to be valid and negotiable for thirty (30) days after the date of re-mailing. In
9 the event that any checks mailed to Settlement Class Members are not cashed, deposited, or
10 otherwise negotiated within the 180-day period, no forwarding address can be located for a
11 Returned Check, or a Returned Check is re-mailed but not cashed, deposited, or otherwise
12 negotiated within the 30-day period from the re-mailing of the Returned Check, then the checks
13 shall be cancelled by the Settlement Administrator, and the funds associated with such cancelled
14 checks shall be transmitted by the Settlement Administrator pursuant to governing law to the
15 California State Controller Unclaimed Property fund to be held there for the benefit of such Class
16 Members under California’s escheatment laws, and such Class Members shall nevertheless be
17 bound to the Settlement Agreement and the Final Approval Order. The Parties agree this
18 disposition results in no “unpaid residue” under California Civil Procedure Code § 384(b), as the
19 entire NSF shall be paid to Participating Class Members, whether or not their Individual Settlement
20 Payment checks are cashed.

21 **NOTICE TO THE CLASS**

22 35. Compilation of Class List: The Parties agree that within thirty (30) calendar days
23 after preliminary approval of this Settlement Agreement by the Court, Defendant will provide a
24 final “**Class List**” to the Settlement Administrator, which list shall include the following most up
25 to date information about each Class Member in an electronic format: (a) full name; (b) most
26 current mailing address and phone number as reflected in Defendant’s personnel records; (c) Social
27 Security Number; (d) hire date(s) of record with Defendant and termination date(s) of record if
28 applicable; (e) number of Workweeks for each Class Member during the Settlement Period; and (f)

1 number of PAGA Pay Periods for each Aggrieved Employee during the PAGA Period. The Class
2 List provided to, updated and maintained by the Settlement Administrator shall be used only by the
3 Settlement Administrator and only for purposes of administering the settlement as provided for in
4 this Agreement, and the Settlement Administrator shall not disclose the contents thereof except as
5 expressly permitted under this Agreement. The restrictions on the use and disclosure of the Class
6 List and the Class Data List (as defined below) shall be deemed, upon entry of the Court's Order
7 granting preliminary approval of this Settlement, to be a protective order entered by the Court
8 subject to full enforcement by the Parties to this Agreement and the Court, and by taking on the
9 administration of the Settlement, the Settlement Administrator agrees that it and its employees,
10 agents and representatives are bound by such protective order. The Settlement Administrator will
11 update addresses contained in the Class List prior to the mailing of the Notice to the Class, by using
12 the U.S. Postal Service's National Change of Address Database. Once the final Class List has been
13 received from Defendant, and updated as stated herein, the list shall then be referred to as the "**Class**
14 **Data List.**" In response to any contention by an individual that they are a Class Member who was
15 omitted from the Class Data List, made on or before the Response Deadline, Defendant will first
16 verify the information contained in the personnel file of the individual at issue and Defendant's
17 payroll records. Unless the individual at issue can establish that he or she should have been included
18 in the Class Data List, by way of supporting documentation, Defendant's records will control. Class
19 Counsel and Defendant's Counsel will then make a good faith effort to determine whether or not
20 the individual at issue is a Class Member. If counsel for the Parties cannot agree, then the
21 Settlement Administrator shall determine whether the individual at issue is a Class Member, who
22 shall examine the records provided by the Defendant and the individual at issue, and shall be the
23 final arbiter of whether or not the individual at issue is a Class Member, subject to final review,
24 determination, and approval by the Court. Nothing herein limits the provisions or applicability of
25 Paragraph 23, above.

26 36. Dissemination of Notice of Class Action Settlement: Within ten (10) court days of
27 its receipt of the Class List, the Settlement Administrator will send the Notice to the Class Members,
28 in both English and Spanish by first-class mail, at their most current address of record or such other

1 address as located by the Settlement Administrator in conformity with Paragraph 35, in the form
2 attached hereto as **Exhibit A** or as otherwise approved by the Court.

3 **RELEASE BY PARTICIPATING CLASS MEMBERS,**

4 **THE LWDA AND AGGRIEVED EMPLOYEES**

5 37. **Release by Participating Class Members:**

6 a. The “**Released Parties**” shall collectively include 48forty Solutions, LLC
7 and each of its current and former officers, directors, and employees, in addition to Defendant
8 Mallory.

9 b. The “**Released Class Claims**” shall include any and all allegations, claims,
10 debts, rights, demands, charges, complaints, actions, causes of action, guarantees, costs, expenses,
11 attorneys’ fees, economic damages, non-economic damages, restitution, civil penalties, statutory
12 penalties, liquidated damages, punitive damages, interest, obligations, liabilities, or other monies
13 and remedies, of any and every kind, contingent or accrued, that were alleged or asserted in the
14 FAC and/or reasonably could have been asserted based on the factual and/or legal violations
15 allegations contained therein, and in any notice Plaintiff sent to the LWDA pursuant to PAGA
16 based on the factual and/or legal violations allegations contained therein, including, without
17 limitation, any alleged violations of Lab. Code §§ 201–203, 204, 210, 216, 218.6, 221, 226, 226.3,
18 226.7, 226.8, 246, 432.5, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1198.5,
19 2802, 2699, and/or 2699.3, violation of California’s Unfair Competition Law (Bus. & Prof. Code
20 § 17200 *et seq.*), and/or for civil penalties pursuant to PAGA, based in whole or in part on any
21 direct or imputed violation of any federal, state, local or administrative constitution, charter, law,
22 rule, regulation or ordinance.

23 c. Upon the Settlement Administrator’s receipt of the GSF from Defendant,
24 Plaintiff and the Participating Class Members shall be deemed to have released the Released Parties
25 of and from all Released Class Claims that arose, accrued, and/or have been asserted during the
26 Settlement Period.

27 38. **Release by the LWDA and the Aggrieved Employees:**

28 a. Upon the Settlement Administrator’s receipt of the GSF from Defendant,

1 Plaintiff, the LWDA, and the Aggrieved Employees shall be deemed to have released the Released
2 Parties of and from any and all allegations, claims, debts, rights, demands, charges, complaints,
3 actions, and causes of action for civil penalties of any and every kind, contingent or accrued, that
4 have been alleged or asserted in the FAC in the Action and in any notice sent to the LWDA pursuant
5 to PAGA based on the factual and/or legal violations allegations contained therein, including the
6 FAC and the LWDA Notice, arising during the PAGA Period, including, without limitation, for
7 failure to pay minimum, overtime or other wages, failure to provide and/or record meal periods
8 and/or pay associated premiums, failure to authorize and permit rest periods and/or pay associated
9 premiums, failure to timely pay wages during employment, failure to timely pay wages upon
10 termination of employment, failure to provide accurate itemized wage statements, failure to keep
11 and maintain accurate timekeeping and/or payroll records, and failure to reimburse employment-
12 related or business expenses (the “**Released PAGA Claims**”).

13 **INJUNCTION BARRING PURSUIT OF RELEASED CLAIMS**

14 39. As part of the Final Approval of the Settlement, Plaintiff, Participating Class
15 Members, the LWDA, and Aggrieved Employees shall be permanently enjoined and restrained
16 from filing, initiating, or continuing to prosecute any actions, claims, complaints, or proceedings in
17 court, arbitration, with the California Division of Labor Standards Enforcement (“**DLSE**”), with
18 the LWDA, or with any other entity, with respect to the claims released as described in Paragraphs
19 37 and 38, above. This settlement is conditioned upon the release by Participating Class Members,
20 Plaintiff, Aggrieved Employees, and the LWDA as described in Paragraphs 37 and 38, above, and
21 upon covenants by each of them that they will not and cannot bring or participate in any actions,
22 lawsuits, proceedings, complaints, or charges brought individually, by the DLSE, the LWDA, or
23 by any other agency, persons or entity in any court, arbitration or before any administrative body
24 with respect to the claims released as described in Paragraphs 37 and 38, above, nor will any of
25 them contest or interfere with efforts by Defendant or by any other Released Parties to oppose any
26 attempt to bring such released claims against any of them. Additionally, it is agreed herein that
27 neither injunctive nor declaratory relief, nor any equitable relief, will be ordered by the Court
28 against Defendant in Final Approval of the Settlement, which will otherwise be grounds for

1 Defendant rescinding and terminating this Settlement Agreement.

2 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

3 40. The Parties shall promptly seek the Court's approval of this Settlement. Plaintiff's
4 counsel will prepare Plaintiff's motion for preliminary approval. Not later than five (5) court days
5 prior to the submission of the motion for preliminary approval of this Settlement Agreement to the
6 Court, Class Counsel will submit a near-final draft thereof (including all supporting papers and
7 proposed order) to counsel for Defendant for their review and comment. As soon as practicable
8 after execution of this Settlement Agreement, the Class Representative and Class Counsel shall
9 apply to the Court for the entry of a preliminary approval order which would accomplish the
10 following:

11 a. Schedule a hearing (the "**Final Approval Hearing**") on the question of
12 whether the Settlement, including, *inter alia*, the payment of Attorneys' Fees and Costs,
13 Enhancement Award, and PAGA Amount should be finally approved as fair, reasonable, and
14 adequate, and finally resolving any outstanding issues or disputes remaining from the
15 administration of the notice of the settlement;

16 b. Conditionally certify the Class for purposes of the Settlement only;

17 c. Approve, as to form and content, the proposed Notice;

18 d. Direct the mailing of the Notice by first class mail to the Class Members;

19 e. Preliminarily approve the Settlement and monetary allocations for
20 awards/payments of Attorneys' Fees and Costs, Settlement Administration Costs, Enhancement
21 Award, and PAGA Amount, subject to the final review and approval by the Court;

22 f. Preliminarily approve Simpluris as the Settlement Administrator;

23 g. Preliminarily approve and appoint Plaintiff as a representative of the Class;

24 and

25 h. Preliminarily approve and appoint Plaintiff's Counsel as counsel for the
26 Class.

27 41. Plaintiff's Counsel shall be responsible for ensuring that all required submittals and
28 notifications to the LWDA under PAGA regarding this Settlement are made by Plaintiff.

DUTIES OF THE PARTIES FOLLOWING PRELIMINARY APPROVAL

42. Plaintiff's counsel will prepare Plaintiff's motion for final approval. Not later than five (5) calendar days prior to the submission of the motion seeking Final Approval, Class Counsel will submit a near-final draft thereof (including all supporting papers and proposed order) to counsel for Defendant for their review and comment. In conjunction with the request for Final Approval of the Settlement provided for in this Settlement Agreement, Class Counsel will submit a proposed Final Approval Order and Judgment that provides for the following:

a. Granting final approval of the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;

b. Approving and awarding Attorneys' Fees and Costs to Class Counsel;

c. Approving and awarding the Enhancement Award to the Class Representative;

d. Approving and awarding all payments specified in this Settlement Agreement to the LWDA, Aggrieved Employees, and Participating Class Members;

e. Permanently enjoining and restraining Plaintiff, Participating Class Members, Aggrieved Employees, and the LWDA from and against initiating or pursuing any claims settled herein and released by this Settlement Agreement; and

f. Entering judgment in accordance with the terms of this Settlement Agreement, including without limitation the permanent injunction provisions.

PARTIES' AUTHORITY

43. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

MUTUAL FULL COOPERATION

44. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to execution of such documents and other actions as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this

1 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this
2 Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and
3 its counsel, take all necessary steps to secure the Court's preliminary approval and final approval
4 of this Settlement Agreement.

5 **NO PRIOR ASSIGNMENTS**

6 45. The Parties hereto represent, covenant, and warrant that they have not, directly or
7 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
8 person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein
9 released and discharged except as set forth herein.

10 **CONSTRUCTION**

11 46. The Parties hereto agree that the terms and conditions of this Settlement Agreement
12 are the result of lengthy, intensive, arms-length negotiations between the Parties, conducted under
13 the auspices of mediator Michael Dickstein, a respected and experienced wage and hour class action
14 mediator. The Parties further agree that they have each had a full opportunity to negotiate the terms
15 and conditions of this Agreement. Accordingly, the Parties expressly waive the common law and
16 statutory rules of construction that ambiguities should be construed against the drafter of an
17 agreement, and agree, covenant, and represent that the language in all parts of this Agreement shall
18 be in all cases construed as a whole, according to its fair meaning.

19 **CAPTIONS AND INTERPRETATIONS**

20 47. Paragraph titles or captions contained herein are inserted as a matter of convenience
21 and for reference, and in no way define, limit, extend, or describe the scope of this Settlement
22 Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not
23 merely a recital.

24 **MODIFICATION**

25 48. This Settlement Agreement may not be changed, altered, or modified, except in
26 writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement
27 may not be discharged except by performance in accordance with its terms or by a writing signed
28 by the Parties hereto.

INTEGRATION CLAUSE

49. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

BINDING ON ASSIGNS

50. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

SIGNATORIES

51. It is agreed that because of the large number of Participating Class Members, it is impossible or impractical to have each Participating Class Member execute this Settlement Agreement. As such, Plaintiff is signing on behalf of the Participating Class Members. In addition, the Notice will advise all Participating Class Members of the binding nature of the release of claims under the Settlement and that such shall have the same force and effect as if this Settlement Agreement was executed by each Participating Class Member.

CONFIDENTIALITY

52. Plaintiff and Class Counsel will maintain the proposed settlement and this Settlement Agreement as confidential and not publicly disclose the same except as set forth herein and in Paragraph 54, below. Except as set forth in Paragraph 54, below, or as otherwise agreed in writing between the Parties, both before and following the execution of this Settlement Agreement by the Parties and their counsel, there will be no direct or indirect comment or publication by Plaintiff and Class Counsel (lead or otherwise) of the settlement in terms of affirmative or responsive media statements/comments, press releases or conferences, website postings or content, social media postings or content, other Internet postings or content, subscribed email messages, newsletters, disseminated updates, mass mailings, or any other comment or publication to the press, media or public at large. This shall not apply to or limit the public filing of motions or other case materials by Class Counsel in the Action related to seeking and obtaining Court approval of the

1 proposed settlement and the related awards of attorneys' fees and costs, enhancement, and the other
2 relief set forth in this Settlement Agreement, or to communications between Class Counsel,
3 Plaintiff, and/or Class Members in the Action, except that prior to the filing of the motion for
4 preliminary approval of the Settlement in the Action, Class Counsel shall not discuss the Settlement
5 with Class Members other than the named Plaintiff. Class Counsel may otherwise state only that
6 the Action has been settled on terms mutually agreeable to the Parties. The Parties understand and
7 agree that there may be media coverage of the settlement of the Action not initiated by Plaintiff,
8 directly or indirectly. It is also agreed and understood that the Parties may disclose the settlement
9 to their families, plus their legal, tax, or accounting advisors, insurance companies, or as required
10 by law, regulatory rules or regulatory requirements.

11 WEBSITE

12 53. The Parties agree that the Settlement Administrator may use U.S. Mail and an
13 information-only website (the "**Settlement Website**") to provide notice and information about the
14 Settlement to Class Members. The Settlement Website is to be established by the Settlement
15 Administrator solely for purposes of the administration of the Settlement, and the domain name
16 used for the website will be subject to Defendant's reasonable approval. Not later than the date
17 that the Settlement Administrator must remit any funds associated with cancelled Individual
18 Settlement Share checks, as set forth in Paragraph 34, the Settlement Website will be taken down.
19 No information about the Action or the settlement may be posted on any of Class Counsel's
20 websites except as expressly set forth herein without Defendant's prior written consent.

21 COUNTERPARTS

22 54. This Settlement Agreement may be executed in counterparts, and when each Party
23 has signed and delivered at least one such counterpart, each counterpart shall be deemed an original,
24 and, when taken together with other signed counterparts, shall constitute one Settlement
25 Agreement, which shall be binding upon and effective as to all Parties.

26 GOVERNING LAW

27 55. The Parties agree that California law governs the interpretation and application of
28 this Settlement Agreement, except to the extent governed by federal law in which case federal law

1 will apply.

2 **MISCELLANEOUS PROVISIONS**

3 56. Each Party to Bear Own Costs. Except as specifically provided herein, the Parties
4 hereto will bear responsibility for their own attorneys' fees and costs, taxable or otherwise, incurred
5 by them or arising out of or related to this Action, and will not seek reimbursement thereof from
6 any Party to this Agreement.

7 57. Severability. If any of the above provisions are found null, void, or inoperative, in
8 part or in full, for any reason, the remaining provisions will remain in full force and effect.
9 Notwithstanding, the invalidation in whole or in part of any material term of this Agreement,
10 including but not limited to all the terms and provisions specified in the releases of claims, will
11 invalidate this Agreement in its entirety unless the Parties subsequently agree in writing that the
12 remaining provisions will remain in force and effect.

13 58. Non-Evidentiary Use. Neither the fact of this Agreement, the existence of this
14 Agreement, the terms of this Agreement, nor any order or action pursuant thereto may be referred
15 to, relied upon, cited, or used as evidence by any of the Parties, Class Members, or their respective
16 counsel in the Action or in any other action or proceeding; provided, however, that nothing
17 contained in this section shall prevent this Agreement from being used, offered, or received in
18 evidence in any proceeding to enforce, construe, or finalize this Agreement.

19 59. Advice of Counsel. The Parties to this Agreement are represented by competent
20 counsel, and they have had an opportunity to consult with counsel. The Parties to this Agreement
21 agree that it reflects their good faith compromise of the claims raised in this action, based upon
22 their assessment of the mutual risks and costs of further litigation and the assessments of their
23 respective counsel.

24 ///

25 ///

26 ///

27 ///

28 ///

EACH OF THE UNDERSIGNED ACKNOWLEDGE THAT EACH HAS READ THE FOREGOING AGREEMENT AND ACCEPTS AND AGREES TO THE PROVISIONS CONTAINED THEREIN, AND HEREBY EXECUTES IT VOLUNTARILY WITH FULL KNOWLEDGE OF ITS CONSEQUENCES.

IT IS SO STIPULATED AND AGREED:

DATED: 7/11/2023

DocuSigned by:

7C8CF6F90CC64F8...

ROBERT BENNET
Plaintiff and Proposed Class Representative

DATED: 07/13/2023

48FORTY SOLUTIONS, LLC

By: 

Name: Matthew Hunt

Title: General Counsel

AGREED AND APPROVED AS TO FORM AND CONTENT:

DATED: 7/11/23

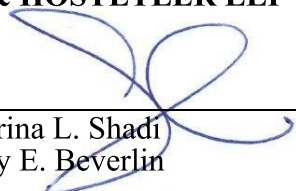
SROURIAN LAW FIRM, P.C.

By: 
Daniel Srourian

Attorneys for Plaintiff
ROBERT BENNET

DATED: 7/13/2023

BAKER & HOSTETLER LLP

By: 
Sabrina L. Shadi
Amy E. Beverlin

Attorneys for Defendants
48FORTY SOLUTIONS, LLC and MATT MALLORY

EXHIBIT A

NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

ROBERT BENNET V. 48FORTY SOLUTIONS

Superior Court of California for the County of Riverside, Case No. CVRI2201011

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the Class Settlement, object to the Class Settlement, and/or dispute the number of Pay Periods that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Robert Bennet ("Plaintiff") and Defendant 48forty Solutions ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the case entitled *Robert Bennet v. 48forty Solutions*, Riverside County Superior Court, Case No. CVRI2201011 (the "Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly paid employees employed by Defendant who worked in the State of California at any time during the time period from March 11, 2018 through and including [date of Preliminary Approval].

"Class Member" means a member of the Class.

"Class Period" means the period from March 11, 2018 through and including [date of Preliminary Approval].

"Class Settlement" means the settlement and resolution of all Released Class Claims (described in Section III.D below).

"Aggrieved Employees" means all current and former hourly paid employees who worked for Defendant in the State of California at any time during the time period from March 11, 2021 through and including [date of Preliminary Approval].

"PAGA Period" means the period from March 11, 2021 through and including [date of Preliminary Approval].

"PAGA Settlement" means the settlement and resolution of all Released PAGA Claims (described in Section III.D below).

II. BACKGROUND OF THE LAWSUIT

In March 2022, Plaintiff filed a putative class action lawsuit in Riverside County Superior Court against Defendant and others in which he alleges violations of California wage-and-hour laws on behalf of himself and all of Defendant's current and former hourly paid employees in California. In July 2022, Plaintiff filed a First Amended Class Action Complaint (the "First Amended Complaint") asserting putative class and representative action claims for damages under the California Labor Code and for civil penalties pursuant to the California Labor Code Private Attorneys General Act ("PAGA").

Plaintiff alleges that the Class was not paid regular, minimum, or overtime wages or final wages upon separation from employment, as required by California law; was not provided meal and rest periods under the California Labor Code and Industrial Welfare Commission's Wage Orders (the "Wage Orders"); was not reimbursed for all business-related expenses; and was not provided wage statements with information specified in the California Labor Code. Plaintiff also alleges violations of the California Business and Professions Code Section 17200. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the allegations in the Action or that it or any employee of Defendant violated any law.

The Parties participated in mediation with a respected class action mediator, and as a result of the mediator's efforts, the Parties reached a settlement. The Parties have since entered into the Stipulation for Settlement and Release of Class Action and PAGA Claims (the "Settlement" or "Settlement Agreement").

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Simpluris, Inc. as the administrator of the Settlement (the "Settlement Administrator"), Plaintiff Robert Bennet as representative of the Class (the "Class Representative"), and the following Plaintiff's attorneys as counsel for the Class ("Class Counsel"):

SROURIAN LAW FIRM, P.C.

Daniel Srourian, Esq.

3435 Wilshire Blvd., Suite 1710, Los Angeles, CA 90010

Phone: (213) 474-3800 Fax: (213) 471-4160 Email: daniel@slfla.com

If you are a Class Member, you do not need to take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are an Aggrieved Employee, you do not need to take any action to receive an Individual PAGA Payment.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff, Class Members, or Aggrieved Employees. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members and Aggrieved Employees. The Court has made no ruling on the merits of the claims asserted in the Action and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is One Million Nine Hundred and Fifty Thousand Dollars (\$1,950,000) (the "Gross Settlement Fund"). The portion of the Gross Settlement Fund that is available for payment to Class Members is referred to as the "Net Settlement Fund." The Net Settlement Fund will be the Gross Settlement Fund less the following payments which are subject to approval by the Court: (1) attorneys' fees, in an amount up to one-third of the Gross Settlement Fund (*i.e.*, up to \$649,935.00) and reimbursement of reasonable litigation costs and expenses in an amount up to Thirty Thousand Dollars (\$30,000) (collectively, the "Attorneys' Fees and Costs") to Class Counsel; (2) Enhancement Award in an amount up to Ten Thousand Dollars (\$10,000) to Plaintiff for his services in the Action; (3) the amount of One Hundred and Ninety Five Thousand Dollars (\$195,000) allocated toward civil penalties under PAGA (the "PAGA Amount"); and (4) Settlement Administration Costs in an amount presently projected not to exceed Thirty Thousand Dollars (\$30,000) to the Settlement Administrator. The PAGA Amount will be distributed 75% to the California Labor And Workforce Development Agency ("LWDA") (*i.e.*, \$146,250) (the "LWDA Payment") and the remaining 25% (*i.e.*, \$48,750) will be distributed to Aggrieved Employees (the "Aggrieved Employees Payment").

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Fund ("Individual Settlement Share") based on the number of workweeks actually worked by each Class Member for Defendant as a hourly paid employee in California during the Class Period (the "Workweeks").

The Settlement Administrator has multiplied the Net Settlement Fund by a fraction, the numerator of which is the Class Member's individual number of Workweeks actually worked during the Class Period, and the denominator of which is the total number of Workweeks actually worked by all Class Members, to yield the Class Member's estimated Individual Settlement Share they may be eligible to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion (the "Participating Class Members") will be issued

payment of their final Individual Settlement Payment.

Each Individual Settlement Share will be allocated as twenty percent (20%) wages (the “Wages Portion”) and eighty percent (80%) civil or statutory penalties, statutory and other non-wage damages, and interest (collectively, the “Non-Wages Portion”). The Wages Portion will be reported on an IRS Form W-2, and the Non-Wage Portions will be reported on an IRS Form 1099 (if applicable). Each Individual Settlement Share will be subject to reduction for the employee’s share of taxes and withholdings with respect to the Wages Portion of the Individual Settlement Share (the net payment is referred to as “Individual Settlement Payment”). The employer’s share of payroll taxes and contributions with respect to the Wages Portion of Individual Settlement Shares shall be paid separately by Defendant.

Aggrieved Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the Aggrieved Employees Payment (“Individual PAGA Payment”) based on the number of pay periods actually worked by each Aggrieved Employee for Defendant as an hourly paid employee in California during the PAGA Period (the “PAGA Pay Periods”).

The Settlement Administrator has multiplied the Aggrieved Employees Payment by a fraction, the numerator of which is the Aggrieved Employee’s individual number of PAGA Pay Periods, and the denominator of which is the total number of PAGA Pay Periods of all Aggrieved Employees, to yield the Aggrieved Employee’s estimated Individual PAGA Payment he or she may be eligible to receive under the PAGA Settlement (which is listed in Section III.C below).

Each Individual PAGA Payment will be allocated as 100% penalties, which will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Participating Class Members and Individual PAGA Payments will be mailed to Aggrieved Employees at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks Based on Defendant’s Records

According to Defendant’s records, you are credited as having actually worked [REDACTED] Workweeks.

If you wish to dispute the Workweeks credited to you, you must submit a written dispute (a “Workweeks Dispute”) to the Settlement Administrator, which must: (i) include your full name, current mailing address, telephone number, signature, and last four digits of your Social Security number; (ii) include the case name and number of the Action (*Robert Bennet v. 48forty Solutions*, Riverside County Superior Court, Case No. CVRI2201011); (iii) include a statement indicating that you seek to dispute the number of Workweeks credited to you, the time period(s) you worked for Defendant in an hourly paid position in California during the Class Period, and the number of Workweeks that you contend should be credited to you; (iv) include documentation and/or other facts supporting your position; and (v) be submitted by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked on or before **[Response Deadline]**.

C. Your Estimated Individual Settlement Share and Individual PAGA Payment

As explained above, your estimated Individual Settlement Share is based on the number of Workweeks credited to you and your estimated Individual PAGA Payment is based on the number of PAGA Pay Periods credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for taxes and withholdings with respect to the Wages Portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED].

The settlement approval process may take multiple months. Your Individual Settlement Share and/or Individual PAGA Payment (if applicable) reflected in this Notice is only an estimate. Your actual Individual Settlement Share and Individual

PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon occurrence of the Effective Date and full funding of the Gross Settlement Fund, Plaintiff and the Participating Class Members will release the Released Parties of and from the Released Class Claims. To the extent required under applicable law, Participating Class Members who cash, deposit, or otherwise negotiate their Individual Settlement Payment will be deemed to have opted-in to the Action for purposes of the release of Released Class Claims.

Upon the occurrence of the Effective Date and full funding of the Gross Settlement Fund, the LWDA and the Aggrieved Employees will release the Released Parties of and from the Released PAGA Claims.

“Released Class Claims” means any and all allegations, claims, debts, rights, demands, charges, complaints, actions, causes of action, guarantees, costs, expenses, attorneys’ fees, economic damages, non-economic damages, restitution, civil penalties, statutory penalties, liquidated damages, punitive damages, interest, obligations, liabilities, or other monies and remedies, of any and every kind, contingent or accrued, that were alleged or asserted in the First Amended Complaint and/or reasonably could have been asserted based on the factual and/or legal violations allegations contained therein, and in any notice Plaintiff sent to the LWDA pursuant to PAGA based on the factual and/or legal violations allegations contained therein, including, without limitation, all of the following: failure to pay all regular wages, minimum wages, and overtime wages due; failure to properly calculate the regular rate of pay for payment of overtime wages; failure to provide proper meal periods, and to properly provide premium pay in lieu thereof; failure to authorize and permit proper rest periods, and to properly provide premium pay in lieu thereof; failure to pay all wages timely during employment; failure to pay all wages timely at the time of termination; failure to provide complete, accurate, or properly formatted wage statements; failure to keep required payroll records; failure to reimburse business expenses; unfair business practices; and any other claims based on the facts alleged in the First Amended Complaint.

“Released PAGA Claims” any and all allegations, claims, debts, rights, demands, charges, complaints, actions, and causes of action for civil penalties of any and every kind, contingent or accrued, that have been alleged or asserted in the First Amended Complaint in the Action and in any notice sent to the LWDA pursuant to PAGA based on the factual and/or legal violations allegations contained therein, including the First Amended Complaint and the LWDA Notice, arising during the PAGA Period, including, without limitation, for failure to pay minimum, overtime or other wages, failure to provide and/or record meal periods and/or pay associated premiums, failure to authorize and permit rest periods and/or pay associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination of employment, failure to provide accurate itemized wage statements, failure to keep and maintain accurate timekeeping and/or payroll records, and failure to reimburse employment-related or business expenses.

“Released Parties” means Defendant and each of its current and former officers, directors, and employees, including Defendant Matthew Mallory.

E. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount up to one-third (1/3) of the Gross Settlement Fund (*i.e.*, up to \$649,935) and reimbursement of reasonable litigation costs and expenses in an amount up to Thirty Thousand Dollars (\$30,000) (collectively, the “Attorneys’ Fees and Costs”), subject to approval by the Court. The Attorneys’ Fees and Costs granted by the Court will be paid from the Gross Settlement Fund. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, and Aggrieved Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Award to Plaintiff

Plaintiff will seek the amount of Ten Thousand Dollars (\$10,000) (“Enhancement Award”), in recognition of his services in connection with the Action. The Enhancement Award will be paid from the Gross Settlement Fund, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is presently estimated not to exceed Thirty Thousand Dollars (\$30,000) (the “Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Objections, and Pay Periods Disputes, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Fund, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Class Claims described in Section III.D above.

If you are an Aggrieved Employee, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims described in Section III.D above.

Class Members and Aggrieved Employees will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless they retain their own counsel, in which event they will be responsible for their own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

A Class Member may request to opt out of and be excluded from the Class Settlement by submitting a written request (“Request for Exclusion”) to the Settlement Administrator by returning the Request for Exclusion Form attached to this Notice to the Settlement Administrator by mail at the specified address below, postmarked on or before **[Response Deadline]**. The Request for Exclusion Form must include the full name, current mailing address, telephone number, signature, and last four digits of the Social Security number of the Class Member seeking exclusion as well as the date on which the Request for Exclusion Form was signed.

[Settlement Administrator]

[Mailing Address]

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be entitled to receive an Individual Settlement Payment, will not be bound by the release of Released Class Claims (described in Section III.D above), and will not have any right to object to, appeal, or comment on the Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Participating Class Members and will be bound by all terms of the Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. Aggrieved Employees will be bound to the PAGA Settlement and will still be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

A Class Member may object to the Class Settlement, as long as they have not submitted a Request for Exclusion (*i.e.*, they are a Participating Class Member). A Class Member may object to the Class Settlement by submitting a written request (“Notice of Objection”) to the Settlement Administrator by returning the Notice of Objection Form attached to this Notice to the Settlement Administrator by mail at the specified address below, postmarked on or before **[Response Deadline]**. The Notice of Objection Form must include the full name, current mailing address, telephone number, signature, and last four digits of the Social Security number of the Class Member seeking to object as well as the date on which the Notice of

Objection Form was signed; a statement indicating the objecting Class Member's reason for their objection; and a statement indicating whether the objecting Class Member is represented by an attorney and identifying that attorney.

Participating Class Members also have the right to appear at the Final Approval Hearing in order to orally present objections to the Court, whether or not they have submitted a Notice of Objection Form.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 1 of the Riverside County Superior Court, located at Historic Courthouse, 4050 Main Street, Riverside, California 92501, on [date], at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Attorneys' Fees and Costs to Class Counsel, Enhancement Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to. Personal appearances and telephonic appearances are an option.

Information about appearing remotely is available online at: <https://www.riverside.courts.ca.gov/PublicNotices/remote-appearances.php>. Please note that there may be deadlines to reserve a remote appearance and fees or charges may apply.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action by visiting the following website: <https://epublic-access.riverside.courts.ca.gov/public-portal/>. Fees and other charges may apply in order to obtain copies of court records.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.

REQUEST FOR EXCLUSION FORM

Instructions: Complete this Request for Exclusion Form *only if* you want to exclude yourself from the Settlement that is described in the foregoing Notice of Class and Representative Action Settlement. This Request for Exclusion Form must be returned via mail to the Settlement Administrator at [insert address] and must be postmarked by [insert response deadline] to be effective.

I. Request for Exclusion

I wish to exclude myself from the Class Settlement described in the Notice of Class and Representative Action Settlement that I received. I understand that this means that I will *not* receive a settlement payment or other benefits under the Class Settlement and will not be subject to the Class Settlement. I further understand that I cannot exclude myself from the PAGA Settlement.

II. Personal Information

Name (first, middle and last): _____

Current Mailing Address: _____

Telephone Number: _____

Last Four Digits of SSN: _____

Email Address (optional): _____

III. Certification

I hereby certify that the contents of this Request for Exclusion Form are true and accurate, and that I have read and understand the Notice of Class and Representative Action Settlement that I received.

Dated: _____

(Signature)

(Print Name)

NOTICE OF OBJECTION FORM

Instructions: You should fill out this Notice of Objection Form *only if* you wish to object to the Settlement. If you have no objection to the Settlement, you do not have to do anything to receive a settlement payment. **Please note that you cannot submit this Notice of Objection Form if you submit a Request for Exclusion.** Objecting to the Settlement is simply telling the Court that you do not like something about the Settlement. You can object *only if* you wish stay in the Class. Excluding yourself is telling the court that you do not want to be a part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

This Notice of Objection Form must be returned via mail to the Settlement Administrator at [insert address] and must be postmarked by [insert response deadline] to be effective. Participating Class Members may also appear at the Final Approval hearing to have their objection heard by the Court, whether or not they have submitted a Notice of Objection Form.

I. Objection

I wish to object to the settlement. I understand that I will still remain a member of the Class as described in the Settlement Agreement if my objection is overruled. I understand I can review the Settlement Agreement on the Court's website as stated in the Notice of Settlement that I received.

The basis for my objection is as follows: ☐ (check if attachment included)

II. Personal Information

Name (first, middle and last): _____
Current Mailing Address: _____

Telephone Number: _____
Last Four Digits of SSN: _____
Email Address (optional): _____

☐ Check if you are represented by an attorney.

Attorney Name: _____ Attorney Telephone # and Email Address: _____

III. Certification

I hereby certify that the contents of this Notice of Objection Form are true and accurate, and that I have read and understand the Notice of Class and Representative Action Settlement that I received.

Dated: _____
(Signature) _____
(Print Name) _____