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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ANTHONY ROBLES and DAVID CHAVEZ,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

PEPSICO BEVERAGE SALES, LLC;
BOTTLING GROUP, LLC; CB
MANUFACTURING COMPANY, INC.; and
DOES 1 through 20, inclusive,

Defendants.

Case No. CIVSB2204715

**STIPULATION AND SETTLEMENT OF
CLASS CLAIMS**

Assigned for All Purposes to:
Hon. David Cohn

[Complaint Filed: March 25, 2022]
[FAC Filed: November 30, 2022]

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1 I. Definitions. The following terms and definitions will be used in this Stipulation
2 and Settlement of Class Claims. Additional terms are defined throughout the document as well.

3
4 A. “Named Plaintiffs” means Plaintiffs David Chavez and Anthony Robles.

5
6 B. “Defendants” means Defendants Bottling Group, LLC; PepsiCo Beverage
7 Sales, LLC; and CB Manufacturing Company, Inc.

8
9 C. “Plaintiffs” shall be defined as all current and former hourly-paid and/or
10 non-exempt employees employed by Defendants in California during the Class and/or PAGA
11 Period.

12
13 D. “Parties” means Named Plaintiffs and Defendants, collectively, as defined
14 above.

15
16 E. “Plaintiffs’ Counsel” or “Class Counsel” means Farzad Rastegar, Douglas
17 W. Perlman, and Aja M. Taormina of Rastegar Law Group and Samuel Wong, Kashif Haque,
18 Jessica Campbell, and Namrata Kaur of Aegis Law Firm.

19
20 F. “Action” or “Class Action” means the lawsuits filed in San Bernardino
21 Superior Court, entitled *Robles v. PepsiCo Beverage Sales, LLC*, Case No. CIVSB2204715 and
22 *Chavez v. Bottling Group, LLC*, JCCP Case No. 5237.

23
24 G. “Operative Complaint” means the Second Amended Complaint filed by
25 Named Plaintiff Robles in the *Robles* Action.

26
27 H. “Class Members” means all Plaintiffs who do not elect to exclude
28 themselves by following steps set forth in Section X.E.5.b below.

1 I. “Class Period” means the time period beginning after the release in *Revels*
2 *v. Bottling Group, LLC*, Orange County Superior Court Case No. 30-2018-01031810-CU-OE-
3 CXC on January 1, 2020, and ending on December 31, 2022, excluding the time period released in
4 *Stevens v. PepsiCo, Inc. et al.*, Case No. 22-cv-00802 (S.D.N.Y) (*i.e.*, December 5, 2021 through
5 and including April 8, 2022). However, if the number of employees exceeds 8,297 or the number
6 of workweeks exceeds 501,611 by more than 5% (*i.e.*, 8,712 employees or 526,692 workweeks),
7 the Parties agree to maintain the \$1,250,000.00 maximum settlement fund, but will limit the Class
8 Period through the date at which the workweeks are within the 5% escalator clause.

9
10 J. “PAGA Period” means the time period beginning one year prior to Plaintiff
11 Chavez submitting his LWDA letter (*i.e.*, March 17, 2020 through and including December 31,
12 2022).

13
14 K. “Unlocated Plaintiff” means any Plaintiff whose Notice has been returned
15 as undeliverable after all of the procedures in Section X.F.4.c have been followed. Unlocated
16 Plaintiffs will not be sent individual settlement awards, but will remain Class Members.

17
18 L. “Effective Date” means the date by which this settlement is finally
19 approved as provided herein and the Court’s Final Judgment (“Final Judgment or “Judgment”)
20 becomes final. For purposes of this Section, the Court’s Final Judgment becomes final upon the
21 latter of: (i) if no appeal is filed, the expiration date and time for the filing or noticing of any
22 appeal from the Court’s judgment [the earlier of 60 days from the date a Notice of Entry of
23 Judgment or a file-stamped copy of the Final Judgment and Order (substantially in the form
24 attached hereto as **Exhibit 3**) is served on counsel; (ii) the date of affirmance of an appeal of the
25 judgment becomes final under the California Rules of Court [30 days after the date a court of
26 appeal’s decision is filed unless (1) the court of appeal grants a petition for rehearing which by
27 rule vacates the decision and sets the case “at large in the Court of Appeal,” or (2) certifies its
28 opinion for publication or partial publication after filing its decision, which resets the finality

1 period from the filing date of the order for publication], the expiration of the time for a petition for
2 review of the Final Judgment or of any court of appeal decision relating to the Final Judgment [10
3 days after the Court of Appeal's decision is final], and, if review is granted, the date of final
4 affirmance of the Final Judgment following review pursuant to that grant; or (iii) the date of final
5 dismissal of any appeal from the Judgment or the final dismissal of any proceeding on review of
6 any court of appeal decision relating to the Judgment.

7
8 II. Settlement Agreement. This Stipulation and Settlement of Class Claims
9 (“Settlement,” “Stipulation,” or “Agreement”) is made between the Named Plaintiffs on behalf of
10 themselves and each of the other Plaintiffs on the one hand, and the Defendants, on the other hand,
11 in the Action and subject to approval of the Court. In the event the Settlement does not become
12 effective by the terms of this Stipulation or for any other reason, any Orders entered pursuant to
13 this Stipulation shall be rendered null and void, and shall be vacated, and the Parties shall revert to
14 their respective positions existing immediately on the date before the mediation on December 2,
15 2022.

16
17 III. Procedural History. Named Plaintiff Chavez filed his lawsuit in Kern County
18 Superior Court on October 19, 2021, against Bottling Group, LLC, alleging the following causes
19 of action: (1) failure to provide adequate meal periods; (2) failure to provide adequate rest breaks;
20 (3) failure to timely pay minimum and straight wages; (4) failure to timely pay overtime
21 compensation; (5) failure to reimburse for necessary business expenses; (6) failure to pay all
22 wages due upon termination of employment; (7) failure to provide accurate wage statements and
23 maintain required payroll records; (8) violations of unfair competition law; and (9) representative
24 action for civil penalties under California Labor Code Section 2698, et. seq. Named Plaintiff
25 Chavez filed a Petition for Coordination with *Perez v. Bottling Group, LLC and PepsiCo, Inc.*,
26 Sacramento Superior Court Case Nos. 34-2021-00304956 and 34-2021-00307352 on April 15,
27 2022. On August 8, 2022, the coordination motion judge granted Named Plaintiff Chavez’s
28 Petition for Coordination. Named Plaintiff Robles filed his lawsuit in San Bernardino Superior

1 Court against PepsiCo Beverage Sales, LLC on March 28, 2022. Named Plaintiff Robles filed a
2 first amended complaint on November 30, 2022. Named Plaintiff Robles filed a second amended
3 complaint adding Plaintiff Chavez as a named Plaintiff alleging the following causes of action: (1)
4 failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal
5 periods; (4) failure to permit rest breaks; (5) failure to reimburse for necessary business expenses;
6 (6) failure to provide accurate itemized wage statements; (7) failure to pay all wages due upon
7 separation of employment; (8) failure to pay all wages due during employment; (9) violation of
8 Business and Professions Code Section 17200 *et seq.*, and (10) representative action for civil
9 penalties under California Labor Code Section 2698, *et. seq.* On November 4, 2022 Plaintiff
10 Anthony Robles filed a Joint stipulation for leave to file a First amended complaint to add a
11 PAGA cause of action. On December 2, 2022, the Parties mediated the case before David A.
12 Rotman via Zoom, and although they did not settle on the date of the mediation, the Parties
13 continued post-mediation settlement negotiations through the assistance of the mediator until
14 ultimately resolving the matter resulting in the execution of this Agreement.

15
16 IV. Investigation in the Class Action. The Parties have conducted an extensive
17 investigation of the facts and the law, including, *inter alia*, the exchange of hundreds of pages of
18 information through informal discovery. Further, the Parties held numerous meetings and
19 informal conferences wherein they exchanged information, theories of the case, and class data.
20 Specifically, Defendants provided Plaintiff Chavez with a roughly 15% sampling of putative class
21 members' wage statements and time punch records, and provided Plaintiff Robles with a roughly
22 26% sampling of putative class members' wage statements and time punch records. Additionally,
23 Defendants provided both Plaintiffs with additional key data points per Plaintiffs' requests.
24 Counsel for the Parties further investigated the applicable law as applied to the facts discovered
25 regarding the alleged claims of Plaintiffs and potential defenses thereto, Defendants' contentions
26 that it properly provided meal and rest periods, properly paid for all time worked, reimbursed for
27 all expenses, and the damages claimed by Plaintiffs.

1 V. Plaintiffs' Claims. Named Plaintiffs have claimed and continue to claim that the
2 Released Claims, as defined in Section X.B below, have merit and give rise to liability on the part
3 of Defendants. Neither this Agreement, the documents referred to or contemplated herein, nor any
4 action taken to carry out this Agreement is, or may be construed or used as an admission,
5 concession, or indication by or against Plaintiffs or Class Counsel as to the merits or lack thereof
6 of the Claims asserted.

7
8 VI. Defendants' Denial of Wrongdoing. Defendants have denied and continue to deny
9 each of the Claims and contentions alleged by Plaintiffs in the Action. Defendants have
10 repeatedly asserted and continue to assert defenses thereto, and have expressly denied and
11 continue to deny any wrongdoing or legal liability arising out of any of the facts or conduct
12 alleged in the Action. Defendants also have denied and continue to deny, *inter alia*, the
13 allegations that Plaintiffs have suffered damages; that Defendants violated the California Labor
14 Code or any other provision of law; that Defendants engaged in any other wrongful conduct as
15 alleged in the Action; or that Plaintiffs were harmed by the conduct alleged in the Action. Neither
16 this Agreement, nor any document referred to or contemplated herein, nor any action taken to
17 carry out this Agreement, is, may be construed as, or may be used as an admission, concession or
18 indication by or against Defendants of any fault, wrongdoing or liability whatsoever.

19
20 VII. Named Plaintiffs' Reasons for Settlement. Named Plaintiffs recognize the expense
21 and length of continued proceedings necessary to continue the litigation against Defendants
22 through trial and through any possible appeals. Named Plaintiffs have also taken into account the
23 uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in
24 such litigation. Named Plaintiffs are also aware of the burdens of proof necessary to establish
25 liability for the claims asserted in the Action (the "Claims" or "Class Action Claims"),
26 Defendants' defenses thereto, and the difficulties in establishing damages for Plaintiffs. Named
27 Plaintiffs have also taken into account the extensive discovery undertaken and settlement
28 negotiations conducted, which negotiations resulted in the material settlement terms entered into

1 on February 13, 2023. Based on the foregoing, Named Plaintiffs have determined that the
2 Settlement set forth in this Agreement is a fair, adequate and reasonable settlement, and is in the
3 best interests of Plaintiffs.

4
5 VIII. Defendants' Reasons for Settlement. Defendants have concluded that any further
6 defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of
7 time, energy and resources of Defendants have been and, unless this Settlement is made, will
8 continue to be, devoted to the defense of the claims asserted by Plaintiffs. For these reasons,
9 Defendants have agreed to settle in the manner and upon the terms set forth in this Agreement to
10 put to rest the Claims as set forth in the Action.

11
12 IX. This Settlement is Fair, Adequate and Reasonable. The Parties believe this
13 Settlement is a fair, adequate, and reasonable settlement of the Action, and have arrived at this
14 Settlement after arms-length negotiations taking into account all relevant factors, present and
15 potential. This Settlement was reached after extensive negotiations with mediator David A.
16 Rotman.

17
18 X. Stipulation. NOW, THEREFORE, IT IS HEREBY STIPULATED, by and among
19 Named Plaintiffs on one hand and Defendants on the other hand, and conditioned upon approval
20 by the Court, that the Class Action is hereby compromised and settled pursuant to the terms and
21 conditions set forth in this Agreement.

22
23 A. Class Certification. For purposes of this Stipulation only, the Parties agree
24 to the certification of the Settlement Class, to include all current and former hourly-paid and/or
25 non-exempt employees employed by Defendants Bottling Group, LLC; PepsiCo Beverage Sales,
26 LLC; and CB Manufacturing Company, Inc. in California during the Class Period. Should for
27 whatever reason the Stipulation not become final, the fact that the Parties were willing to stipulate
28 to class certification as part of the Settlement shall have no bearing on, and shall not be admissible

1 in connection with, the issue of whether a class should be certified in a non-settlement context in
2 the Action, and shall have no bearing on, and shall not be admissible in connection with, the issue
3 of whether a class should be certified in any other lawsuit.

4
5 B. Release as to All Class Members. The release set forth in this Section
6 pertains to Class Members. As set forth in Section I.H, above, Class Members are “all Plaintiffs
7 who do not elect to exclude themselves by following the steps set forth in Section X.F.5.b below.”
8 As of the Date Defendants fund the Settlement, the Class Members, including Named Plaintiffs,
9 release Defendants and each of their past or present officers, directors, shareholders, employees,
10 agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and
11 reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates,
12 parents and attorneys and each of their company-sponsored employee benefit plans and all of their
13 respective officers, directors, employees, administrators, fiduciaries, trustees, and agents
14 (the “Released Parties”), from the “Released Claims.” For the purposes of this Agreement,
15 “Released Claims” means any and all claims, debts, liabilities, demands, obligations, guarantees,
16 costs, expenses, attorneys’ fees, damages, or causes of action contingent or accrued for, alleged, or
17 that could have been alleged, based on the facts, allegations and claims asserted in the Second
18 Amended Complaint filed in the *Robles* Action under any theory of law, including without
19 limitation to, all claims for alleged violations of the Labor Code and/or Wage Orders, which were
20 alleged or that could have been alleged based upon the facts pleaded in the Actions, including, but
21 not limited to, unpaid minimum wage, straight time, or overtime wages (including on an off-the-
22 clock, rounding, calculation of regular rates or other theory), timing of payment, meal and rest
23 period claims (including claims regarding how any meal or rest period penalties were calculated),
24 unpaid expense reimbursements, record-keeping violations, sick time violations, vacation pay
25 violations, and any and all associated penalties and damages (including but not limited to PAGA
26 penalties, pay stub penalties, waiting time penalties, any other penalties arising under the
27 California Labor Code, and liquidated damages) for the Class Period.

1 The Parties agree that this release shall have full res judicata effect as to FLSA
2 claims for all Class Members as described in *Rangel v. PLS Check Cashers of California, Inc.*,
3 899 F.3d 1106 (9th Cir. 2018), regardless of whether that Class Member endorses and cashes his
4 or her settlement check. However, in addition, the Settlement Administrator shall include the
5 following language on each settlement check issued to Class Members: "By endorsing and cashing
6 this check, I consent to join the FLSA settlement class and release any claims under the Fair Labor
7 Standards Act that were pleaded or that could have been pleaded based upon the facts alleged in
8 this action," and copies of these signed endorsements shall be provided to Defendants and shall be
9 filed with the Court as additional proof of consent, with confidential information redacted, if filing
10 the consents is requested by the Court.

11 The Released Claims expressly do not include claims for unemployment
12 compensation, workers' compensation, discrimination, or retaliation.

13 The Released Claims shall apply only during the Class Period.

14 The Class Members may not sue or otherwise make a claim against any of the
15 Released Parties for the Released Claims.

16
17 C. General Release by Named Plaintiffs Only. Named Plaintiffs, as of the
18 Effective Date, make the additional following general release of all claims, known or unknown.
19 Named Plaintiffs fully release and discharge the Released Parties from all claims, demands, rights,
20 liabilities, and causes of action of every nature and description whatsoever, known or unknown,
21 asserted or that might have been asserted, whether in tort, contract, or for violation of any state or
22 federal statute, rule or regulation arising out of, relating to, or in connection with any act or
23 omission by or on the part of any of the Released Parties committed or omitted prior to the
24 execution hereof relating to his employment with or resignation from any of the Released Parties.
25 This includes any unknown claims Named Plaintiffs do not know or suspect to exist in their favor,
26 which, if known by them, may have affected their settlement with, and release of, the Released
27 Parties or might have affected his decision not to object to the settlement.
28

1 With respect to the General Release, Named Plaintiffs stipulate and agree that,
2 upon the Effective Date, Named Plaintiffs shall be deemed to have, and by operation of the Final
3 Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the
4 provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar
5 provision under federal or state law, which provides:

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

11 Named Plaintiffs may hereafter discover facts in addition to or different from those
12 they now know or believe to be true with respect to the subject matter of the General Release, but
13 upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall
14 have, fully, finally, and forever settled and released any and all of the claims released pursuant to
15 the General Release, whether known or unknown, suspected or unsuspected, contingent or non-
16 contingent, which now exist, or heretofore have existed upon any theory of law or equity now
17 existing or coming into existence in the future, including, but not limited to, conduct that is
18 negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard
19 to the subsequent discovery or existence of such different or additional facts. Named Plaintiffs
20 will no longer be aggrieved employees for purposes of PAGA once the Settlement is approved and
21 Defendants complete their duties under the Settlement Agreement. Named Plaintiffs will refrain
22 from filing any litigation against Defendants while the Settlement is pending.

23 D. Neutral Reference. Defendants will only provide dates of employment and
24 job title in response to any inquiries it may receive from prospective employers on behalf of
25 Plaintiffs. Prospective employers must call the Work Verification number. The number is 1-800-
26 367-2884, and Defendant's Corporate Code is 73774. The only information that will be provided
27 will be Named Plaintiffs' job titles and dates of employment. Plaintiffs will be given additional
28 directions if Named Plaintiffs wish to release information about income.

1 E. Settlement Fund. Defendants will create a Settlement Fund in the amount
2 of One Million, Two Hundred and Fifty Thousand Dollars and No Cents (\$1,250,000.00)
3 (“Settlement Fund”) by no later than fourteen (14) calendar days after the Effective Date. One
4 Million, Two Hundred and Fifty Thousand Dollars and No Cents (\$1,250,000.00) is the maximum
5 total amount that Defendants can be required to pay, for any and all purposes, under this
6 Agreement. The Settlement Fund is non-reversionary; in other words, no amount of the
7 \$1,250,000 Settlement Fund will return to Defendants under any circumstances. The Settlement
8 Fund will be allocated among these elements:

9 (a) payments to Class Members of the Individual Settlement Awards less deductions as
10 explained in Section X.E.2;

11 (b) a total amount not to exceed Five Thousand Dollars and No Cents (\$5,000.00) to be
12 paid to each Named Plaintiff as a Service Award, subject to Court approval ;

13 (c) reasonable claims administration expenses, in an amount not to exceed Fifty Thousand
14 Dollars and No Cents (\$50,000.00), subject to Court approval, to be paid to the Settlement
15 Administrator to cover the reasonable costs of the Settlement Administration process;

16 (d) Plaintiffs’ attorneys’ fees not to exceed one-third (1/3) of the Settlement Fund, or a
17 maximum of Four Hundred Sixteen Thousand Six Hundred and Sixty-Six Dollars and
18 Sixty-Seven Cents (\$416,666.67) subject to Court approval;

19 (e) Plaintiffs’ attorneys’ litigation costs not to exceed the amount of Forty Thousand
20 Dollars and No Cents (\$40,000.00) subject to their billing statements and Court approval;
21 and

22 (g) Thirty-Five Thousand Dollars and No Cents (\$35,000.00) allocated for penalties
23 recoverable under PAGA and payable to the Labor and Workforce Development Agency
24 (“LWDA”), 75% of which, or \$26,250.00, will be paid to the LWDA, and 25% of which,
25 or \$8,750.00, will be paid to the Class Members as an additional component of their
26 Settlement Awards, and will be part of the Settlement Fund. Subsection (a) above includes
27 employer-owed payroll taxes because the Parties considered these taxes during the
28 mediation they attended and were part of the negotiated and bargained-for settlement

1 amount. In other words, Defendants will not be required to pay any employer-owed taxes
2 separate and apart from the Settlement Fund. This is explained more fully in Section
3 X.E.2.c, below.

4 Any amounts allocated to Named Plaintiffs' Service Award, Claims Administration
5 costs, Attorneys' Fees and Litigation Costs, and PAGA penalties not awarded by the Court shall
6 be paid to Class Members as part of their Individual Settlement Awards.

7 The amount that remains after the Service Award, Claims Administration expenses,
8 Attorneys' Fees and Costs, LWDA portion of PAGA penalties, and unawarded portions of those
9 components, have been deducted from the Settlement Fund shall be called the "Payout Fund."
10 The Payout Fund shall be designated as 20% wages and 80% interest and penalties.

11
12 1. Fees and Costs Award and Service Award. The Parties agree to the
13 designation of Farzad Rastegar Douglas W. Perlman, and Aja M. Taormina of Rastegar Law
14 Group and Samuel Wong, Kashif Haque, Jessica Campbell, and Namrata Kaur of Aegis Law Firm
15 as "Class Counsel." Class Counsel will request that the Court approve an award of attorneys' fees
16 of up Four Hundred Sixteen Thousand Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents
17 (\$416,666.67) subject to Court approval ("Fees Award"). This constitutes one-third (1/3) of the
18 value of the Settlement Fund. Class Counsel will also request a Costs Award not to exceed Forty
19 Thousand Dollars and No Cents (\$40,000.00). Defendants will not oppose these requests. Class
20 Counsel shall not be permitted to petition the Court for, or accept, any additional payments for
21 fees, costs, or interest, and the Fees Award and Costs Award shall be for all claims for attorneys'
22 fees and costs past, present, and future incurred in the Action.

23 Defendants' payment of the Fees Award and Costs Award to Class Counsel shall
24 constitute full satisfaction of the obligation to pay any amounts to any person, attorney, or law
25 firm for attorneys' fees, expenses or costs in the Action incurred by any attorney on behalf of
26 Named Plaintiffs and/or the Class. Further, said payment shall relieve Defendants, the Settlement
27 Administrator, the Settlement Fund, and Defendants' Counsel of any other claims or liability to
28

any other attorney or law firm for any attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of Named Plaintiffs and/or the Class.

Class Counsel will request that the Court approve a Service Award in a total amount not to exceed Five Thousand Dollars and No Cents (\$5,000.00) to be paid to each Named Plaintiff as a Service Award and to be paid out of and deducted from the Settlement Fund. Defendants will not oppose such request. Named Plaintiffs' Service Award will be designated as 100% penalties. Named Plaintiffs will indemnify Defendants for any tax penalties associated with this designation. Named Plaintiffs will receive a 1099 form relating to the Service Award. This award shall be in addition to the amount the Named Plaintiffs may receive as a Class Member. The Fees Award, Costs Award, and Service Award shall be paid by Defendants by and through the Settlement Administrator from the Settlement Fund to Class Counsel within fourteen (14) calendar days after the Effective Date. Any reduction of the Fees Award and Costs Award to Class Counsel and Service Award shall be paid to Class Members as part of their Individual Settlement Awards.

2. Plan of Allocation for Payment to Class Members. Within fourteen (14) calendar days after the Effective Date, and solely for purposes of this Settlement, Defendants shall pay by and through the Settlement Administrator from the Payout Fund the Settlement Awards (as hereinafter defined) to the Class Members in accordance with the following eligibility and settlement formula requirements.

a. Excluded from becoming a Class Member are those Plaintiffs who submit valid and timely requests for exclusion pursuant to the terms and procedures of the Notice of Class Action Settlement (attached as **Exhibit 1** hereto).

b. Any Plaintiff who does not timely request exclusion shall become a Class Member and will receive a Settlement Award. The Individual Settlement Awards to be allocated to each Class Member shall be calculated as follows:

(1) After deducting the amount of the Fees Award, the Costs Award, the Service Award, the LWDA's share of the PAGA Payment, and settlement

1 administration expenses that are all finally approved by the Court, the remaining Payout Fund will
2 be allocated to the Class Members;

3 (2) To arrive at these amounts, the Payout Fund will be
4 distributed on a pro-rata basis to Class Members based on a per-workweek basis. Class Members
5 will receive their pro-rata share based on how many workweeks they worked during the Class
6 Period as compared to all workweeks worked by all Class Members during the Class Period
7 (“Workweek Totals”). The number of workweeks for each Plaintiff will be determined by adding
8 all the calendar days within the inclusive dates of employment and dividing that number by seven.
9 Any partial workweek will be expressed as a percentage of a full workweek. This shall be
10 considered each Plaintiff’s “Workweek Figure.” Class Members’ Gross Settlement Amounts will
11 be calculated by dividing the Payout Fund by the total of all Plaintiffs’ Workweek Figures to
12 arrive at a Per-Workweek Amount, and then multiplying this amount by each Class Member’s
13 Workweek Figure.

14 For example, a Class Member who worked 365 days would have a Workweek
15 Figure of 52 weeks. If the Payout Fund was \$707,083.33, and the total workweeks for all
16 Plaintiffs was 526,692, this would result in a \$1.34 Per-Workweek Amount. Then, the above
17 Class Member would be eligible for \$1.34 for 52 workweeks, or \$69.68. This would be the Class
18 Member’s Gross Settlement Amount.

19 c. Twenty percent (20%) of all Individual Settlement Payments
20 to Class Members will be called the “Gross Wage Portion.” The remaining eighty percent (80%)
21 of payments to Class Members represents the “Non-Wage Portion” of the Individual Settlement
22 Payment and includes interest and penalties sought in the Action. Class Members will be issued
23 W2s for the Wage Portions of their Individual Settlement Payment and IRS Form 1099s for the
24 Non-Wage Portions. From each Class Member’s Gross Wage Portion, payroll deductions will be
25 made for state and federal withholding taxes and any other applicable payroll deductions owed by
26 the Class Member’s employer as a result of the payment. The resulting amount will be each
27 individual Class Member’s “Gross Wage Component.” From each Class Member’s Gross Wage
28 Component, payroll deductions will be made for state and federal withholding taxes and any

1 payroll taxes owed by the Class Member as a result of the payment, resulting in a “Net Wage
2 Component.” The total of the Net Wage Component and the Non-Wage Portion shall be the Class
3 Member's “Net Settlement Amount.” The Net Settlement Amount will be the net amount paid to
4 each Class Member and is the Class Member's “Individual Settlement Award.”

5 d. The Settlement Administrator shall be responsible for issuing
6 the payments and calculating and withholding all required state and federal taxes owed by the
7 Class Members and Defendant. The Settlement Administrator shall calculate the Settlement
8 Awards no later than seven (7) calendar days after receiving the Workweek Totals for each
9 Plaintiff (i.e., the “Class List and Data Report” defined below) from Defendant.

10 e. Some of the Individual Settlement Awards may remain
11 unclaimed because a Plaintiff (1) was an Unlocated Plaintiff, (2) submitted a valid and timely
12 request for exclusion, and/or (3) failed to cash his or her Individual Settlement Award Check
13 within one hundred and eighty (180) days of its issuance, as allowed by Court order. Funds
14 associated with the Individual Settlement Awards of Plaintiffs who have submitted valid and
15 timely requests for exclusion and funds associated with Unlocated Plaintiffs shall be included in
16 the Payout Fund and will be distributed amongst Class Members in accordance with the formulas
17 above. Funds associated with uncashed checks will be remitted to the State Controller Unclaimed
18 Wages Fund with the identity of the plaintiffs to whom the funds belong. There shall be no *cy*
19 *pres* under Code of Civil Procedure section 384.

20
21 3. Operation of the Settlement Fund and Payout Fund.

22 a. At no time shall Defendants have the obligation to segregate
23 the funds comprising the Settlement Fund from their other assets and will retain exclusive
24 authority over, and responsibility for, those funds until they are paid over to the Settlement
25 Administrator.

26 b. The Settlement Administrator will calculate the net amounts
27 to be paid to the Class Members from the Payout Fund in accordance with the terms and
28 provisions of this Agreement.

1 c. The Settlement Administrator shall have the authority and
2 obligation to make payments, credits, and disbursements, including payments and credits in the
3 manner set forth herein, to Class Members from the Payout Fund in accordance with the
4 methodology set out in this Agreement and orders of the Court.

5 d. To the extent any tax returns must be filed for the Settlement
6 Fund pursuant to this Agreement, the Settlement Administrator shall cause to be timely and
7 properly filed all informational and other tax returns, if any, necessary with respect to the
8 Settlement Fund. Such returns shall be consistent with this Section. The Parties do not believe
9 that the Settlement Fund will generate any taxable income. However, if any taxable income is
10 generated by the Settlement Fund, the tax returns filed shall reflect that all taxes payable on the
11 taxable income of the Settlement Fund, if any, shall be paid from the Settlement Fund. Any
12 expenses consisting of the expenses and costs incurred in connection with the operation and
13 implementation of this Section (including, without limitation, reasonable expenses of tax
14 attorneys, accountants or other designees retained by the Settlement Administrator as required for
15 the preparation and filing of tax returns described in this Section) shall be treated as, and
16 considered to be, a cost of administration of the Settlement.

17 e. No person shall have any claim against Defendants,
18 Defendants' Counsel, Named Plaintiffs, Plaintiffs, or Plaintiffs' Counsel based on distributions
19 and payments made in accordance with this Agreement.

20
21 F. Administration of the Settlement.
22

23 1. A hearing shall be held before the Court on a mutually-convenient
24 date, or on another date and time if that hearing is rescheduled, at which the Named Plaintiffs shall
25 request preliminary approval of the Settlement. In conjunction with this hearing, Named Plaintiffs
26 will submit this Agreement, which sets forth the terms of this Settlement, and will include
27 proposed forms of all notices and other documents as attached hereto necessary to implement the
28

1 Settlement. Defendants shall not oppose Named Plaintiffs' request for preliminary approval
2 consistent with this Agreement.

3
4 2. Simultaneous with the filing of this Agreement, and solely for
5 purposes of this Settlement, Named Plaintiffs will request the Court to enter the Preliminary
6 Approval Order ("Preliminary Approval Order") (substantially in the form attached as **Exhibit 2**
7 hereto) preliminarily approving the proposed Settlement, approving the appointment of Class
8 Counsel, and setting a date for final approval of the Settlement. The Proposed Order shall provide
9 for notice of the Settlement and related matters to be sent to Plaintiffs as specified herein. The
10 Parties will request the Court, in its preliminary approval of this Settlement, to enjoin any
11 Plaintiffs from initiating or prosecuting any proceeding on any claim to be released pursuant to
12 this Stipulation unless, and until, either the Plaintiff opts out of the class, or the Effective Date
13 does not occur (as set forth in Section I.K, above).

14
15 3. Interim Stay of Proceedings. The Parties agree to hold all Court
16 proceedings in the Act in abeyance pending the Preliminary Settlement Hearing and Final
17 Approval Hearing to be conducted by the Court. No additional discovery shall be conducted in
18 this case unless this Settlement Agreement is nullified in accordance with Section X.G below.

19
20 4. Notice of the Settlement shall be provided to Plaintiffs using the
21 following procedures:

22 a. Class List. Within thirty (30) calendar days after
23 Preliminary Approval, Defendants shall provide the Settlement Administrator a "Class List and
24 Data Report" showing the full names, full social security numbers, and last known telephone
25 numbers and mailing addresses for all Plaintiffs and their weeks worked within a covered position,
26 as well as applicable Workweek Totals. The Settlement Administrator shall keep this information
27 confidential and shall not share this information with Class Counsel. Additionally, Plaintiffs and
28 Class Counsel shall not be entitled to the names or contact information for the Plaintiffs. However,

1 Class Counsel will be provided the full payout spreadsheet minus names, addresses, personal
2 phone numbers e-mail addresses, or any other contact information, and be provided with social
3 security numbers truncated to the last four digits. This will allow Class Counsel to locate the data
4 for any individual Plaintiff so that they can fulfill their duties as Class Counsel. In addition, Class
5 Counsels' contact information will be included on the Class Notice so that Plaintiffs can reach
6 them.

7 b. Settlement Administrator. The Parties agree to designate
8 Phoenix Class Action Administration Solutions as the "Settlement Administrator." In the event
9 Phoenix Class Action Administration Solutions is subsequently unable to serve as Settlement
10 Administrator, another Settlement Administrator shall be agreed to by the Parties, or, if they
11 cannot reach agreement, will be selected by the Court. The Parties agree that they have selected a
12 Settlement Administrator with whom they have no financial interest or other relationship that
13 could create a conflict of interest. The Settlement Administrator shall be responsible for:
14 preparing, printing, and mailing the Notice as directed by the Court to the Plaintiffs;
15 communicating with Plaintiffs and others regarding the Settlement Award administration process,
16 corrections, and/or additional information needed for administration; calculating the Total
17 Workweeks; calculating the amount of the Individual Settlement Awards and all payroll tax
18 deductions to be withheld; keeping track of opt outs; drafting and mailing Settlement Award
19 checks to Class Members; disbursing the Fees Award and Costs Award to Class Counsel;
20 disbursing the Service Awards to Named Plaintiffs; and submitting the LWDA's portion of the
21 PAGA payment to the LWDA; preparing, mailing, and filing all applicable tax forms necessary as
22 a result of the payments made under this Settlement; and for such other tasks as the Parties
23 mutually agree or the Court orders the Settlement Administrator to perform. Defendants
24 represents that the Notice need only be provided in English to the Class because all Class
25 Members are proficient in the English language.

26 c. Notice Mailing. By no later than fourteen (14) calendar days
27 after receipt of the Class List/Data Report, the Settlement Administrator shall send the Notice to
28 all Plaintiffs via First Class regular U.S. Mail. Prior to mailing, one National Change of Address

1 (“NCOA”) search will be performed on Defendants’ records to ascertain updated contact
2 information for all Plaintiffs. Any Notices returned to the Settlement Administrator as non-
3 delivered before the Notice Deadline Date specified below shall be sent to the forwarding address
4 affixed thereto within ten (10) days of receiving notice that a Notice was undeliverable. If no
5 forwarding address is provided, then the Settlement Administrator shall attempt to determine a
6 correct address by using a single computer or other search using the social security number of the
7 individual involved and shall forward the Notice to the correct address.

8 d. In the event the procedures in this Section are followed and
9 the intended recipient of a Notice still does not receive the Notice, the intended recipient shall
10 remain a Class Member and shall be bound by all terms of the Settlement and by any Final
11 Judgment entered by the Court, provided the Settlement is approved by the Court. As defined
12 above, these persons shall be included as “Unlocated Plaintiffs.”

13 e. The Parties agree that this procedure (i.e., direct notice via
14 U.S. Mail) is the best notice practicable under the circumstances and fully complies with due
15 process and all applicable laws and rules.

16
17 5. Procedure for Objecting to or Requesting Exclusion From Class
18 Action Settlement.

19 a. Procedure for Objecting. The Notice shall provide that Class
20 Members who wish to object to the Settlement must submit a written statement objecting to the
21 Settlement. Such written objection must contain the name, address, telephone number, and
22 employee ID number or last four digits of the social security number of the person objecting;
23 whether the objector has retained an attorney; and if the objector has retained an attorney, the
24 name of the firm, name of the attorney, address, and telephone number. Such written statement
25 must be returned by mail to the Settlement Administrator and must be postmarked no later than
26 forty-five (45) calendar days after the date the Notice is first mailed based on the postmark date of
27 the Notice (the “Objection/Exclusion Deadline Date”). Class Member shall also be entitled to
28 appear at the final Settlement Hearing (whether individually or through separate counsel at his/her

own expense) to object to the Settlement. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether an objection has been timely submitted. Class Members who fail to submit timely written or oral objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. Further, if the objector retains an attorney, the attorney must file a valid notice of appearance within seven (7) days after the deadline for submitting objections. Any Class Member who submits a timely and valid objection will still be entitled to his or her Individual Settlement Award as a Class Member, and will be bound by the Settlement if the Court approves the Settlement. If a Plaintiff submits both a timely objection and request for exclusion from the settlement, the objection will not be considered but the request for exclusion will be accepted.

b. Procedure for Requesting Exclusion. The Notice shall provide that Plaintiffs who wish to exclude themselves from the Class must submit a written statement requesting exclusion from the Class on or before the Objection/Exclusion Deadline Date. Such written request for exclusion must contain the name, address, telephone number, and employee ID number or last four digits of the social security number of the person requesting exclusion. Such request must be returned by mail to the Settlement Administrator and must be postmarked on or before the Objection/Exclusion Deadline Date. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Any Plaintiff who submits a timely and valid request for exclusion from the Class will not be entitled to any recovery under the Settlement and will not be bound by the Settlement or have any right to object, appeal, or comment thereon. Plaintiffs who fail to submit a valid and timely request for exclusion on or before the Objection/Exclusion Deadline Date shall become Class Members and shall be bound by all terms of the Settlement and any Final Judgment entered in the Class Action if the Settlement is approved by the Court.

6. 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

1 Parties or their counsel seek to solicit or otherwise encourage Plaintiffs to submit written
2 objections to the Settlement or requests for exclusion from the Settlement Class or to appeal from
3 the Court's Final Judgment.

4
5 7. The Settlement Administrator will, on a weekly basis during and for
6 a reasonable period following the Notice Period, provide updates to Class Counsel and Defense
7 Counsel as to the number of Plaintiffs who submitted (i) valid opt-out requests for exclusions; (ii)
8 and objections. To the extent practicable, the weekly updates shall also provide updated data on
9 the extent of Class Notices that are returned undeliverable and any re-mailing efforts. The updates
10 shall not identify the Plaintiffs by name, address, employee identification number, or any other
11 information. Additionally, Plaintiffs and Class Counsel shall not be entitled to the names or
12 contact information for the Plaintiffs. However, Class Counsel will be provided the full payout
13 spreadsheet minus names, addresses, personal phone numbers e-mail addresses, or any other
14 contact information, and be provided with social security numbers truncated to the last four
15 digits. This will allow Class Counsel to locate the data for any individual Plaintiff so that they can
16 fulfill their duties as Class Counsel. In addition, Class Counsels' contact information will be
17 included on the Class Notice so that Plaintiffs can reach them.

18
19 8. The Settlement Administrator will prepare a declaration to be
20 provided to Class Counsel and Defendant's Counsel for filing in support of Plaintiff's motion for
21 final approval attesting to the following: (i) its mailing efforts regarding the Class Notice; (ii) its
22 receipt of the valid requests for exclusion, and its inability to deliver the Class Notice to Plaintiffs,
23 if any; (iii) the highest and lowest estimated Award Payments, along with the estimated average
24 Award Payment.

25
26 9. Option to Terminate Settlement. If, after the Objection/Exclusion
27 Deadline Date, and before the Settlement Hearing referenced in Section X.F.10 below, the number
28 of Plaintiffs who have timely submitted valid requests for exclusion total more than ten percent

(10%) of all Plaintiffs, Defendants shall have, in their sole discretion, the option to terminate this Settlement. To be valid, a request for exclusion must be submitted on a timely basis and contain the information as required by the Settlement Agreement. Defendants agree to meet and confer in good faith with Class Counsel before withdrawing from this Agreement. In the event that Defendants elect to withdraw, they shall provide written notice of such withdrawal to Class Counsel. If Defendants choose to exercise their rights to withdraw from the Settlement Agreement, Defendants must do so within ten (10) days after the Settlement Administrator notifies Class Counsel and Defendant's Counsel of the number of valid opt outs or objections received, which the Settlement Administrator will do within ten (10) days after the Objection/Exclusion Deadline Date. Class Counsel may attempt to cause retraction of any election of exclusion by Plaintiffs. If Defendants have exercised their option to withdraw from the Settlement Agreement, and Class Counsel succeeds in causing the retraction of sufficient requests for exclusion such that the remaining number of Plaintiffs seeking exclusion does not exceed 10% of the Plaintiff Class, then Defendants' notice of withdrawal from the Settlement Agreement shall automatically be deemed a nullity. To retract a prior request for exclusion, a Plaintiff must provide to the Settlement Administrator, at least three (3) calendar days prior to the Final Settlement Hearing, or any adjournment thereof, a written notice stating his or her desire to retract his or her request for exclusion from the Plaintiff Class. Any withdrawal from this Agreement by Defendants shall have the same effect as a termination of the Settlement Agreement for failure to satisfy a condition of settlement, and the Settlement Agreement shall become null and void and have no further force or effect, and the Settlement Class certified pursuant to the Settlement Agreement will be decertified for all purposes. If Defendants choose to terminate the Stipulation based upon this Section, Defendants shall pay the Claims Administrator's fees and costs incurred to that point.

10. Final Settlement Approval Hearing and Entry of Final Judgment.

Upon expiration of the Objection/Exclusion Deadline Date, with the Court's permission, a Final Settlement Approval Hearing ("Settlement Hearing") shall be conducted to determine final approval of the Settlement along with the amount properly payable for (i) attorneys' fees and costs

1 to Class Counsel, (ii) Named Plaintiffs' Service Awards, (iii) Settlement Administration fees; and
2 (iv) PAGA penalties. Upon final approval of the Settlement by the Court at or after the Settlement
3 Hearing, the Parties shall present an Order Granting Final Approval and Final Judgment ("Final
4 Judgment and Order") (substantially in the form attached as **Exhibit 3** hereto) to the Court for its
5 approval. After entry of the Final Judgment and Order, the Court shall have continuing
6 jurisdiction pursuant to California Code of Civil Procedure section 664.6 solely for purposes of
7 addressing: (i) settlement administration matters and (ii) such post-Final Judgment matters as may
8 be appropriate under court rules or as set forth in this Agreement.

9
10 11. The Settlement Administrator shall establish a Settlement Account
11 (either a separate checking account or separate ledger entry), and timely fund any checks written
12 upon the Settlement Account to pay all amounts owed under this Settlement. Within fourteen (14)
13 calendar days after the Effective Date, Defendants will wire to or otherwise fund the Settlement in
14 the amount of the full Settlement Fund of \$1,250,000.00;

15
16 12. Procedure for Payment of Settlement Awards. Within ten (10)
17 calendar days after the Effective Date, the Settlement Administrator will pay Attorneys' Fees and
18 Costs, the Named Plaintiff's Service Award, and \$26,250.00 to the LWDA (or whatever other
19 amount awarded to the LWDA by the Court). Within ten (10) calendar days after the Effective
20 Date, the Settlement Administrator shall mail Individual Settlement Awards to the Class
21 Members. Any checks paid to Settlement Class Members shall remain valid and negotiable for
22 one hundred eighty (180) days from the date of their issuance ("Check Stale Date"). Any checks
23 not cashed after one hundred eighty (180) calendar days will be distributed as set forth within this
24 Agreement. For any checks that are returned with a forwarding address, the Settlement
25 Administrator shall send the check to that forwarding address within ten (10) calendar days. For
26 any checks that are returned with no forwarding address, the Settlement Administrator shall
27 attempt to determine a correct address by using a single computer or other search and shall call the
28 Class Member at the telephone number provided by Defendant. If the Settlement Administrator

1 obtains a new address, then the check shall be mailed to that new address within ten (10) calendar
2 days. In the event these procedures are utilized and the person does not receive the check, no
3 additional steps are required and the Settlement Administrator will have fulfilled all of its
4 obligations under this section.

5
6 13. Administration of the Settlement shall be completed on or before the
7 date approximately one hundred eighty (180) days or sooner after the Check Stale Date. Upon
8 completion of administration of the Settlement, the Settlement Administrator shall provide Class
9 Counsel and counsel for Defendants with a declaration of completion to be filed with the Court by
10 Class Counsel.

11
12 14. Administration Cost. All of Defendants' own legal fees, costs and
13 expenses incurred in the Action shall be borne by Defendant. In accordance with Section X.E,
14 settlement administration expenses will be part of the Settlement Fund. The Parties agree to
15 cooperate in the Settlement administration process and to make all reasonable efforts to control
16 and minimize the costs and expenses incurred in administration of the Settlement.

17
18 G. Nullification of Settlement Agreement. In the event that prior to the
19 Effective Date: (i) the Court does not enter a Preliminary Approval Order; (ii) the Court does not
20 finally approve the Settlement as provided herein; (iii) the Court does not enter a Final Judgment
21 as provided herein which becomes final as a result of the occurrence of the Effective Date; (iv)
22 more than ten percent (10%) of Plaintiffs submit valid opt-out election forms and Defendants
23 exercises their option to void the settlement; or (v) the Settlement does not become final for any
24 other reason, this Settlement Agreement shall be null and void and any order or judgment entered
25 by the Court in furtherance of this Settlement shall be treated as void *ab initio*. In that case, the
26 Parties will seek to reach a revised agreement acceptable to them to be presented to the Court. In
27 the event the Parties cannot reach a mutually acceptable revised agreement, they shall ask the
28 mediator to assist them in resolving the remaining disputes before litigating further. In the event

1 the Parties are unable to reach a revised agreement, or any such revised agreement is not approved
2 by the Court, the Parties shall proceed in all respects as if this Settlement Agreement had not been
3 executed and Defendants will not make any payments under this Settlement Agreement, except
4 that any fees already incurred by the Settlement Administrator shall be paid for by Defendants. In
5 the event an appeal is filed from the Court's Final Judgment, or any other appellate review is
6 sought prior to the Effective Date, administration of the Settlement shall be stayed pending final
7 resolution of the appeal or other appellate review. The Parties will work cooperatively in
8 connection with defending the settlement on appeal and each party will file papers in support of
9 the settlement as necessary and appropriate.

10
11 H. No Effect on Employee Benefits. The Service Awards and Individual
12 Settlement Awards paid to the Named Plaintiffs and Class Members shall be deemed not to be
13 pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of
14 the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of Named Plaintiffs or
15 Class Members. The Parties agree that any Service Award and Settlement Awards paid to Named
16 Plaintiffs and Class Members under the terms of this Agreement do not represent any modification
17 of Named Plaintiffs' or Class Members' previously credited hours of service, or other eligibility
18 criteria, under any employee pension benefit plan or employee welfare benefit plan sponsored by
19 Defendants. Further, any Service Award or Settlement Awards hereunder shall not be considered
20 "compensation" in any year for purposes of determining eligibility for, or benefit accrual within,
21 an employee pension benefit plan, employee welfare benefit plan sponsored by Defendant, or
22 unemployment benefits. Defendants will not take 401(k) or other benefits deductions from any
23 Service Award or Individual Settlement Awards.

24
25 I. Notices. Named Plaintiffs shall give the following notices:

26 a. Named Plaintiffs will provide the required notice to the
27 LWDA pursuant to Cal. Labor Code § 2699(l)(2).
28

1 b. Within 30 days of execution of this Agreement, Named
2 Plaintiffs will file a Notice of Conditional Settlement of the Action.

3
4 J. Privacy of Documents and Information. Named Plaintiffs and Named
5 Plaintiffs' counsel agree that none of the documents and information provided to them by
6 Defendants shall be used for any purpose other than prosecution of the Class Action.

7
8 K. Confidentiality Prior to Preliminary Approval. The undersigned agree that
9 prior to the date of the filing of the papers in support of Preliminary Approval, they will keep
10 confidential the terms of this Settlement, and there shall be no publicity of any kind relating to this
11 Settlement. Named Plaintiffs shall be informed that the Settlement is confidential up until the date
12 of the filing of the papers in support of Preliminary Approval, and shall be advised to keep this
13 Settlement confidential. Notwithstanding the foregoing, Named Plaintiff and Class Counsel may
14 inform their immediate family and legal, tax, and financial advisors of this Settlement. However,
15 before disclosing any such information to any such person, Named Plaintiff or Class Counsel (as
16 the case may be) shall advise such person(s) that the information is confidential. The disclosure of
17 this information to any other person shall constitute a breach of this Agreement. Prior to the date
18 of the filing of the papers in support of Preliminary Approval, Class Counsel and Counsel for
19 Defendants may not communicate the terms of this Settlement to Plaintiffs, other than Named
20 Plaintiffs, including on websites. Notwithstanding the foregoing, the Parties may discuss the
21 terms of the Settlement in any papers filed with the Court relating to preliminary approval of the
22 Settlement. Defendants may reference this Settlement prior to Preliminary Approval, in its
23 financial disclosures. The Parties agree that damages from violation of this provision are
24 significant, and impossible to calculate. They therefore agree that any violation of this provision
25 shall subject the Named Plaintiffs and/or their Counsel to liquidated damages in the amount of
26 Five Hundred Dollars and No Cents (\$500.00) per proven breach with a cap of Two Thousand,
27 Five-Hundred Dollars and Zero Cents (\$2,500.00).

1 L. Limited Publicity Following Preliminary Approval. From and after
2 Preliminary Approval of the Settlement, Class Counsel and Named Plaintiffs may only comment
3 regarding the specific terms of this Agreement: (1) as required by law; or (2) as required under the
4 terms of this Agreement. In all other cases, Class Counsel and Named Plaintiffs agree to not
5 publicize this Settlement in any way. Neither Named Plaintiffs nor Class Counsel shall hold any
6 press conference, make any press release, make statements to the press, publish the settlement on
7 the internet or social media, or in any way affirmatively publicize any information related in any
8 way to the Settlement. The Parties agree that damages from violation of this provision are
9 significant, and impossible to calculate. They therefore agree that any violation of this provision
10 shall subject the Named Plaintiffs and/or their Counsel to liquidated damages in the amount of
11 Five Hundred Dollars and No Cents (\$500.00) per proven breach with a cap of Two Thousand,
12 Five-Hundred Dollars and Zero Cents (\$2,500.00). Notwithstanding the foregoing, Class Counsel
13 is expressly permitted to disclose the publicly filed terms of this settlement in their declarations
14 filed in other cases; provided that the declarations are not otherwise publicized or reported, and are
15 only filed with the courts in any other cases. Nothing in this paragraph or any other provision of
16 this Agreement is intended to prevent the Parties from disclosing factual information regarding
17 any claim for sexual harassment, sex discrimination, or retaliation for reporting sexual harassment
18 or sex discrimination pursuant to Code of Civil Procedure § 1001(a)(3). Further, nothing in this
19 Agreement shall prevent Plaintiffs from engaging in any form of concerted activity that is
20 protected by Section 7 of the National Labor Relations Act, which is codified at 29 U.S.C. § 157.
21 Information about such rights is available to Plaintiffs on the National Labor Relations Board's
22 website, www.nlrb.gov.

23
24 M. No Admission by the Released Parties. Defendants and the Released
25 Parties deny any and all claims alleged in the Action and deny all wrongdoing whatsoever. This
26 Agreement is not a concession or admission, and shall not be used against Defendants or any of
27 the Released Parties as an admission or indication with respect to any claim of any fault,
28 concession or omission by Defendants or any of the Released Parties. Whether or not the

1 Settlement is finally approved, neither the Settlement, nor any document, statement, proceeding or
2 conduct related to this Agreement, nor any reports or accounts thereof, shall in any event be:

3
4 1. Construed as, offered or admitted in evidence as, or deemed to be
5 evidence for any purpose adverse to the Released Parties, including, but not limited to, evidence of
6 a presumption, concession, indication or admission by any of the Released Parties of any liability,
7 fault, wrongdoing, omission, concession or damage; or

8
9 2. Disclosed, referred to or offered or received as evidence against any
10 of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or
11 administrative action or proceeding, except for purposes of settling the Action pursuant to this
12 Agreement or enforcing the terms of this Stipulation.

13
14 N. CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS
15 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY"
16 AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING
17 PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO
18 PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR
19 DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND
20 OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
21 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED
22 UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY
23 DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
24 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
25 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
26 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
27 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY
28 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT

1 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
2 ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
3 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY
4 OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
5 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
6 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING)
7 UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT
8 OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
9 CONTEMPLATED BY THIS AGREEMENT.

10
11 O. Exhibits and Headings. The terms of this Agreement include the terms set
12 forth in any of the attached **Exhibits 1 through 3**, which are incorporated by this reference as
13 though fully set forth herein. Any Exhibits to this Agreement are an integral part of the
14 Settlement. The descriptive headings of any Paragraphs or Sections of this Agreement are inserted
15 for convenience of reference only and do not constitute a part of this Agreement.

16
17 P. Amendment or Modification. This Agreement may be amended or
18 modified only by a written instrument signed by counsel for all Parties or their successors-in-
19 interest.

20
21 Q. Entire Agreement. This Agreement and the attached Exhibits constitute the
22 entire agreement among these Parties, and no oral or written representations, or warranties or
23 inducements, have been made to any Party concerning this Agreement or its Exhibits, other than
24 the representations, warranties, and covenants contained and memorialized in such documents.

25
26 R. Authorization to Enter Into Settlement Agreement. Counsel for all Parties
27 warrant and represent that they are expressly authorized by the Parties whom they represent to
28 negotiate this Agreement, and to take all appropriate action required or permitted to be taken by

1 such Parties (including the execution of any other documents) pursuant to this Agreement to
2 effectuate the terms of said Agreement. The Parties and their counsel will cooperate with each
3 other and use their best efforts to effect the implementation of the Settlement.

4
5 S. Binding on Successors and Assigns. This Agreement shall be binding upon,
6 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

7
8 T. California Law Governs. All terms of this Agreement and the Exhibits
9 attached hereto shall be governed by and interpreted according to the laws of the State of
10 California.

11
12 U. Counterparts. This Agreement may be executed in one or more
13 counterparts and transmitted via email or facsimile. All executed counterparts, their copies and
14 each of them, shall be deemed to be one and the same instrument.

15
16 V. Cooperation and Drafting. Each of the Parties has cooperated in the
17 drafting and preparation of this Agreement. Hence, in any construction made of this Agreement,
18 the same shall not be construed against any of the Parties.

19
20 W. Invalidity of Any Provision. Before declaring any provision of this
21 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest
22 extent possible consistent with applicable precedents so as to define all provisions of this
23 Agreement valid and enforceable.

24
25 X. Named Plaintiffs' General Release Remains Effective. Named Plaintiffs
26 agree to sign this Agreement, and by signing this Agreement are bound by the terms herein stated,
27 including without limitation the release set forth in Section X.C. Named Plaintiffs shall retain
28

1 their rights as a Class Members under this Agreement, but understand that should they opt out of
2 the Settlement, they shall waive their rights to any recovery of any Service Award.

3 **NAMED PLAINTIFFS**

4
5 Dated: 04/26/2023

By:



DAVID CHAVEZ

6 Dated:

By:

ANTHONY ROBLES

1 their rights as a Class Members under this Agreement, but understand that should they opt out of
2 the Settlement, they shall waive their rights to any recovery of any Service Award.

3 **NAMED PLAINTIFFS**

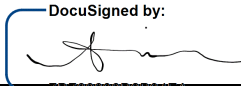
4
5 Dated: _____ By: _____
6 Dated: 4/27/2023 | 4:09 PM PDT By: DAVID CHAVEZ
7 ANTHONY ROBLES

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DEFENDANTS

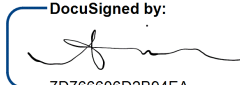
Dated: 4/27/2023

BOTTLING GROUP, LLC

By:  DocuSigned by:
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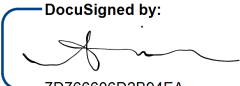
Dated: 4/27/2023

Its: Vice President of Employment Law at PepsiCo, Inc.
PEPSICO, INC.

By:  DocuSigned by:
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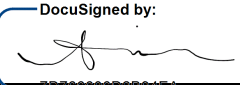
Dated: 4/27/2023

Its: Vice President of Employment Law at PepsiCo, Inc.
PEPSICO BEVERAGE SALES, LLC

By:  DocuSigned by:
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Dated: 4/27/2023

Its: Vice President of Employment Law at PepsiCo, Inc.
CB MANUFACTURING COMPANY, INC.

By:  DocuSigned by:
7D766606D2B94EA...

Its: Vice President of Employment Law at PepsiCo, Inc.

1 APPROVED AS TO FORM:

2 **PLAINTIFFS' COUNSEL**

3
4 Dated: _____ RASTEGAR LAW GROUP

5
6 By: _____
7 FARZAD RASTEGAR

8 Attorneys for Plaintiff
9 DAVID CHAVEZ

10 Dated: _____ AEGIS LAW FIRM

11
12 By: _____
13 JESSICA CAMPBELL

14 Attorneys for Plaintiff
15 ANTHONY ROBLES

16 **DEFENDANTS' COUNSEL**

17 Dated: 4/28/2023 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

18
19 By: 
20 SAMANTHA D. HARDY
21 CARINA L. NOVELL

22 Attorneys for Defendants
23 BOTTLING GROUP, LLC; PEPSICO BEVERAGE
24 SALES, LLC; CB MANUFACTURING COMPANY,
25 INC.

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27
28

1 APPROVED AS TO FORM:

2 **PLAINTIFFS' COUNSEL**

3
4 Dated: _____ RASTEGAR LAW GROUP

5
6 By: _____ FARZAD RASTEGAR

7 Attorneys for Plaintiff
8 DAVID CHAVEZ

9
10 Dated: 4/27/2023 _____ AEGIS LAW FIRM

11
12 By:  _____ JESSICA CAMPBELL

13 Attorneys for Plaintiff
14 ANTHONY ROBLES

15
16 **DEFENDANTS' COUNSEL**

17 Dated: _____ SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

18
19 By: _____ SAMANTHA D. HARDY
20 CARINA L. NOVELL

21 Attorneys for Defendants
22 BOTTLING GROUP, LLC; PEPSICO BEVERAGE
23 SALES, LLC; CB MANUFACTURING COMPANY,
24 INC.

1 APPROVED AS TO FORM:

2 **PLAINTIFFS' COUNSEL**

3
4 Dated: 4-27-2023

RASTEGAR LAW GROUP

5
6 By: 

FARZAD RASTEGAR

7 Attorneys for Plaintiff
8 DAVID CHAVEZ

9
10 Dated: _____

AEGIS LAW FIRM

11
12 By: _____

JESSICA CAMPBELL

13 Attorneys for Plaintiff
14 ANTHONY ROBLES

15
16 **DEFENDANTS' COUNSEL**

17 Dated: _____

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

18
19 By: _____

SAMANTHA D. HARDY
CARINA L. NOVELL

20 Attorneys for Defendants
21 BOTTLING GROUP, LLC; PEPSICO BEVERAGE
22 SALES, LLC; CB MANUFACTURING COMPANY,
23 INC.
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 LIST OF EXHIBITS

1. Class Notice
2. Preliminary Approval Order
3. Final Judgment and Order

NOTICE OF SETTLEMENT

David Chavez and Anthony Robles v. Bottling Group, LLC; PepsiCo Beverage Sales, LLC; and CB Manufacturing Company, Inc.

Superior Court of the State of California for the County of San Bernardino
Case No. CIVSB2204715

TO: Any and all persons who are or were employed as a non-exempt and/or hourly employee employed by Bottling Group, LLC; PepsiCo Beverage Sales, LLC; or CB Manufacturing Company, Inc. in the State of California from January 1, 2020, through December 31, 2022 ("Class Period").

PLEASE READ THIS ENTIRE NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL RIGHT TO A MONETARY SETTLEMENT ARISING OUT OF YOUR EMPLOYMENT AS A NON-EXEMPT AND/OR HOURLY EMPLOYEE BY BOTTLING GROUP, LLC; PEPSICO BEVERAGE SALES, LLC; OR CB MANUFACTURING COMPANY, INC. IN CALIFORNIA DURING THE CLASS PERIOD.

THIS NOTICE WILL EXPLAIN THE ABOVE OPTIONS IN MORE DETAIL AND INFORM YOU OF IMPORTANT, TIME-SENSITIVE DEADLINES FOR EACH OPTION.

I. INTRODUCTION

If you were employed by Defendants Bottling Group, LLC; PepsiCo Beverage Sales, LLC; and/or CB Manufacturing Company, Inc. in California as a non-exempt and/or hourly employee at any time from January 1, 2020, through December 31, 2022 (the "Class Period"), you are a member of the proposed settlement class in this class action lawsuit ("Plaintiff") and your rights will be affected as set forth in the proposed settlement described in this Notice (the "Settlement"). On _____, 2023, the Court preliminarily approved the Settlement. You have received this Notice because Defendants' records show you are a Plaintiff in this action.

II. NATURE OF THE ACTION

This Action was filed by Named Plaintiffs David Chavez and Anthony Robles ("Named Plaintiffs") in the Superior Court for the State of California, County of Kern, on October 19, 2021, against Bottling Group, LLC and on March 28, 2022 in the Superior Court for the State of California, County of San Bernardino, against PepsiCo Beverage Sales, LLC. Named Plaintiffs and the Plaintiffs are represented by Rastegar Law Group and Aegis Law Firm ("Class Counsel").

Named Plaintiffs' Operative Complaint alleges the following causes of action: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to permit rest breaks; (5) failure to reimburse for necessary business expenses; (6) failure to provide accurate itemized wage statements; (7) failure to pay all wages due upon separation of employment; (8) failure to pay all wages due during employment; (9) unfair competition; (10) claims under the Private Attorney's General Act.

Named Plaintiffs generally allege that Defendants failed to properly provide meal and rest periods to its employees, failed to fully and timely pay them all wages owed, failed to reimburse for business expenses, etc. On this basis, Named Plaintiffs also allege derivative claims for failure to pay accurate wages during employment and upon termination, penalties for incorrect wage statements, and penalties under PAGA. For these allegedly improper actions, Named Plaintiffs are demanding various amounts for wages, penalties, interest, attorneys' fees, and other damages (collectively, the "Claims").

III. POSITIONS OF THE PARTIES

Class Counsel have extensively investigated and researched the facts and circumstances underlying the issues raised in the Action, and the applicable law. Class Counsel recognizes the expense and length of continued proceedings necessary to continue the litigation against Defendants through trial and through any possible appeals. Class Counsel has also taken into account the uncertainty and the risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation. Class Counsel is also aware of the burdens of proof necessary to establish liability for the Claims, of Defendants' defenses, and of the difficulties in establishing damages for the Plaintiffs. Class Counsel also has taken into account the extensive settlement negotiations conducted by Plaintiffs and Defendants (the "Parties"). Based on the foregoing, Class Counsel believes the proposed Settlement is fair, adequate and reasonable and in the best interests of the Plaintiffs.

Defendants have denied and continue to deny each of the claims and contentions alleged by Named Plaintiffs in the Action. Defendants have repeatedly asserted and continue to assert defenses thereto, and have expressly denied and continue to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action. Defendants also have denied and continue to deny, *inter alia*, the allegations that Plaintiffs have suffered damages; that Defendants failed to properly provide meal and rest periods to their employees, failed to fully and timely pay them all wages owed, failed to reimburse for business expenses, etc.; that Defendants engaged in any other wrongful conduct as alleged in the Action; or that Plaintiffs were harmed by the conduct alleged in the Action. Defendants have also concluded that the further defense of this litigation would be protracted and expensive for all Parties. Defendants have, therefore, agreed to settle this Action in the manner and upon the terms set forth in the proposed Settlement to put to rest all claims that are or could have been asserted against it in the Action.

IV. YOUR OPTIONS

Upon receipt of this Notice, you have three options, described in further detail in following sections:

DO NOTHING	You will receive your share of the Settlement's Payout Fund. In exchange for receiving payment from the Payout Fund, you are releasing certain state law claims covered by the Settlement, as well as certain related federal law claims, against Defendants and/or related entities.
EXCLUDE YOURSELF	Receive no payment from the Settlement and retain all rights you may have against Defendants and/or related entities as to state and federal claims.
OBJECT	Write to the Court about why you don't agree with the Settlement. The Court may or may not agree with your objection. Objecting to the Settlement will not exclude you from the Settlement, and you will release the claims covered by the Settlement, if it is approved by the Court.

V. THE SETTLEMENT

The following is only a summary of the provisions of the proposed Settlement between the Named Plaintiffs, the Plaintiffs and Defendant. The specific and complete terms of the proposed Settlement are described in the Stipulation and Settlement of Class Claims ("Settlement Agreement"), a copy of which is available from the Court's docket for your review as set forth at the end of this Notice.

The Settlement has a maximum value of \$1,250,000.00 (One Million, Two Hundred and Fifty Thousand Dollars and No Cents) (the "Settlement Fund"). The Settlement Fund is made up of six parts: (1) the total payments to Class Members of the Settlement Awards (the "Payout Fund"); (2) a Fees Award

to Class Counsel; (3) a Costs Award to Class Counsel; (4) a Service Award/General Release Payment to the Named Plaintiffs; (5) a payment to the Labor Workforce Development Agency; and (6) claims administration expenses. The Payout Fund is explained in this Section. The Fees Award, Costs Award, Service Award, payment to the LWDA, and claims administration expenses are explained in Section VI below.

All Plaintiffs are receiving this Notice. All Plaintiffs who do not request to be excluded from the Settlement as set forth in Section VIII below will be "Class Members." All Class Members will automatically receive their pro rata share of the Payout Fund.

Approximately \$727,083.33 (Seven Hundred Twenty-Seven Thousand Eighty-Three Dollars and Thirty-Three Cents) (the "Payout Fund") is available for disbursement to all Plaintiffs. **All Class Members who do not timely and validly opt-out of the class action will receive an Individual Settlement Award.** Individual Settlement Awards will be distributed on a pro-rata basis based on the number of weeks worked by the Class Member as compared to the number of weeks worked by all Class Members. Any partial week worked will be expressed as a percentage of a full workweek.

The records of Defendants reflect that you worked approximately [REDACTED] compensable work weeks as a non-exempt and/or hourly employee of Defendants in California from January 1, 2020, through December 31, 2022. Although the precise amount of payment is subject to change depending on the number of Settlement Class Members and the length of their employment, at this time it is estimated that you will recover approximately \$[REDACTED].

Each Class Member's Gross Settlement Amount will be divided into a "Gross Wage Portion" and a "Non-Wage Portion." The Gross Wage Portion shall comprise twenty percent (20%) of each Class Member's Gross Settlement Amount and the "Non-Wage Portion" shall comprise eighty percent (80%) of each Class Member's Gross Settlement Amount. From each Class Member's Gross Wage Portion, payroll deductions will be made for state and federal withholding taxes and any other applicable payroll deductions owed by the Class Member's employer as a result of the payment. The resulting amount will be each individual Class Member's "Gross Wage Component." From each Class Member's Gross Wage Component, payroll deductions will be made for state and federal withholding taxes and any payroll taxes owed by the Class Member as a result of the payment, resulting in a "Net Wage Component." The total of the Net Wage Component and the Non-Wage Portion shall be the Class Member's "Net Settlement Amount." The Net Settlement Amount will be the net amount paid to each Class Member and is the Class Member's "Individual Settlement Award." Subject to Court approval, the Parties anticipate Individual Settlement Awards will be distributed in approximately [REDACTED], 2023.

Each Class Member will receive their Individual Settlement Award by check. The checks shall remain valid and negotiable for one hundred twenty (120) days from issuance and may thereafter automatically be canceled if not cashed.

VI. CLASS COUNSEL'S FEES AWARD, SERVICE AWARD, PAYMENT TO THE LWDA, AND SETTLEMENT ADMINISTRATION EXPENSES

A. The amount of attorneys' fees awarded to Class Counsel will be subject to the Court's discretion, but in any event, will not exceed \$416,666.67 (Four Hundred Sixteen Thousand Six-Hundred and Sixty-Six Dollars and Sixty-Seven Cents) (the "Fees Award"). Class Counsel may seek a Costs Award not to exceed \$40,000.00 (Forty Thousand Dollars and No Cents). Class Counsel will not be permitted to petition the Court for any additional payments for fees, costs or interest and the Fees Award and Costs Award shall be for all claims for attorneys' fees and costs past, present and future incurred in the Action. The Fees Award and Costs Award will be paid out of and deducted from the Settlement Fund. As part of the Settlement, you will not be required to pay Class Counsel for their representation of you in the Action.

B. The amount of Service Award/General Release Payment to each Named Plaintiff will be subject to the Court's discretion, but in any event, will not exceed \$5,000.00 (Five Thousand Dollars and No Cents) each. This Service Award/General Release Payment shall be paid out of and deducted from the Settlement Fund.

C. As part of the preliminary approval of the Settlement, the Court has approved payment of \$35,000.00 (Thirty-Five Thousand Dollars and No Cents), 75% of which, or \$26,250.00 (Twenty-Six Thousand Two-Hundred and Fifty Dollars and No Cents) will be paid to the California Labor Workforce Development Agency ("LWDA") and represent the LWDA's share of the Settlement attributable to civil penalties under the California Labor Code's Private Attorneys General Act, Labor Code §§ 2699 *et seq.* ("PAGA"). The remaining \$8,750.00 (Eight Thousand Seven Hundred Fifty Dollars and No Cents) will be added to the Payout Fund and distributed to Class Members as part of their Individual Settlement Amounts.

D. Also as part of the preliminary approval of the Settlement, the Court has approved payment of settlement administration expenses in the amount of up to \$50,000.00 (Fifty Thousand Dollars and No Cents) to the Settlement Administrator from the Settlement Fund.

VII. BINDING EFFECT/RELEASE OF CLAIMS

As of the Effective Date, the Class Members, including Named Plaintiffs, release Defendants and each of their past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and its and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys and each of their company-sponsored employee benefit plans and all of their respective officers, directors, employees, administrators, fiduciaries, trustees, and agents (the "Released Parties"), from the "Released Claims." For the purposes of this Agreement, "Released Claims" means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action contingent or accrued for, alleged, or that could have been alleged, based on the facts, allegations and claims asserted in the Second Amended Complaint filed in the *Chavez and Robles* Action under any theory of law, including without limitation to, all claims for alleged violations of the Labor Code and/or Wage Orders, which were alleged or that could have been alleged based upon the facts pleaded in the Actions, including, but not limited to, unpaid minimum wage, straight time, or overtime wages (including on an off-the-clock, rounding, calculation of regular rates or other theory), timing of payment, meal and rest period claims (including claims regarding how any meal or rest period penalties were calculated), unpaid expense reimbursements, record-keeping violations, sick time violations, vacation pay violations, and any and all associated penalties and damages (including but not limited to PAGA penalties, pay stub penalties, waiting time penalties, any other penalties arising under the California Labor Code, and liquidated damages) for the Class Period.

PROCEDURE FOR EXCLUSION

You may exclude yourself from the Settlement by mailing to Phoenix Class Action Administration Solutions located at [ADDRESS], on or before [DATE], a written statement expressing your desire to be excluded from the Settlement in the *Chavez and Robles v. Bottling Group, LLC; PepsiCo Beverage Sales, LLC; and CB Manufacturing Company, Inc.* litigation. If you wish to request exclusion from the Settlement in this Action, your written statement must include your name, address, telephone number, and employee ID number or last four digits of your social security number; whether you have retained an attorney; and if you have retained an attorney, the name of the firm, the name of the attorney, firm address, and firm telephone number.

In addition, it must be postmarked on or before [DATE]. Requests for exclusion that do not include all required information, or that are not submitted on a timely basis, will be deemed null, void and ineffective. Persons who are eligible to and do submit valid and timely requests for exclusion from the

Settlement will not receive Settlement Awards, nor will they be bound by the terms of the proposed Settlement, if it is approved, or the Final Judgment in this Action.

VIII. SETTLEMENT HEARING/OBJECTIONS TO THE PROPOSED SETTLEMENT

A hearing (the “Settlement Hearing”) will be held before the Honorable Judge David Cohn on _____, 2023, at ____:____.m. at the Superior Court of the State of California for the County of San Bernardino, 247 W 3rd St, San Bernardino, CA 92415 (the “Court”), to determine whether the proposed Settlement of the Action is fair, adequate and reasonable and should be approved by the Court and whether the Action should be dismissed on the merits with prejudice. The hearing may be continued by the Court from time to time as the Court may without further direct notice.

Any Class Member who wishes to object to the Settlement must file with the Court and serve on counsel for the Parties a written statement objecting to the Settlement. Such written objection must contain the name, address, telephone number, employee ID number or last four digits of the social security number of the person objecting; the location and dates of his/her employment by Defendants; whether the objector has retained an attorney; and if the objector has retained an attorney, the name of the firm, name of the attorney, address, and telephone number. Any such objection must be filed with the Court and have been served personally on or before _____, 2023, or if by mail then postmarked no later than _____, 2023, upon all of the following:

Class Counsel	Counsel for Defendants
Farzad Rastegar RASTEGAR LAW GROUP 22760 Hawthorne Blvd. Suite 200 Torrance, CA 90505 Jessica Campbell AEGIS LAW FIRM 9811 Irvine Center Dr #100 Irvine, CA 92618	Samantha D. Hardy Carina L. Novell SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP 501 West Broadway, 19 th Floor San Diego, CA 92101

No Class Member shall be entitled to be heard at the Final Settlement Hearing (whether individually or through separate counsel at his/her own expense) or to object to the Settlement, and no objections or briefs submitted by any Class Member shall be received or considered by the Court at the Settlement Hearing, unless written notice of the Class Member’s intention to appear at the Settlement Hearing, and copies of any written objections or briefs, have been filed with the Court and served on counsel for the Parties, before the deadline above. Further, if the objector retains an attorney, the attorney must file a valid notice of appearance within seven (7) days of the deadline for submitting objections. Any Class Member who does not make and serve his or her written objections in the manner provided above shall be deemed to have waived such objections and shall be foreclosed from making any objections (by appeal or otherwise) to the proposed Settlement.

Any Class Member who is satisfied with the proposed Settlement need not appear at the Settlement Hearing.

IX. EXAMINATION OF PAPERS AND INQUIRIES

The foregoing is only a summary of the Action and the proposed Settlement and does not purport to be comprehensive. For a more detailed statement of the matters involved in the Action and the proposed Settlement, you may refer to the pleadings, the Stipulation and Settlement of Class Claims, and other papers filed in the Action, which may be inspected at the Office of the Clerk of the Court, San Bernardino, 247 W 3rd St, San Bernardino, CA 92415, during regular business hours of each Court day.

All inquiries by Plaintiffs regarding this Notice and/or the Settlement should be directed to the settlement administrator for this Settlement, or you can also contact Class Counsel listed in section IX above.

Phoenix Class Action Administration Solutions [ADDRESS] [PHONE] [WEBSITE]
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PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT, OR DEFENDANT'S ATTORNEYS WITH INQUIRIES

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

ANTHONY ROBLES and DAVID CHAVEZ,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

PEPSICO BEVERAGE SALES, LLC;
BOTTLING GROUP, LLC; CB
MANUFACTURING COMPANY, INC.; and
DOES 1 through 20, inclusive,

Defendants.

Case No. CIVSB2204715

**STIPULATION AND SETTLEMENT OF
CLASS CLAIMS**

Assigned for All Purposes to:
Hon. David Cohn

[Complaint Filed: March 25, 2022]
[FAC Filed: November 30, 2022]

PRELIMINARY APPROVAL ORDER

1 WHEREAS, this action is pending before this Court as a class action (the “Action”); and

2
3 WHEREAS, the Parties have jointly applied to this Court for an order preliminarily
4 approving the settlement of the Action in accordance with a Stipulation and Settlement of Class
5 Claims (the “Stipulation” or “Settlement”), which, together with the exhibits annexed thereto, sets
6 forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice
7 upon the terms and conditions set forth therein; and the Court having read and considered the
8 Stipulation and the exhibits annexed thereto;

9
10 NOW, THEREFORE, IT IS HEREBY ORDERED:

11
12 1. This Order incorporates by reference the definitions in the Stipulation, and all terms
13 defined therein shall have the same meaning in this Order as set forth in the Stipulation.

14
15 2. The Court recognizes that the Plaintiffs and Defendants stipulate and agree to
16 certification of a class for settlement purposes only. For settlement purposes only, the Court
17 conditionally certifies the following settlement class (the “Class”): “all current and former hourly-
18 paid and/or non-exempt employees employed by Defendants Bottling Group, LLC; PepsiCo
19 Beverage Sales, LLC; and CB Manufacturing Company, Inc. in the State of California from
20 January 1, 2020, through December 31, 2022.”

21
22 3. The Court finds, for settlement purposes only, the requirements of California Code
23 of Civil Procedure section 382 are satisfied. The term “Class Member” means a Plaintiff who has
24 not requested exclusion from the Settlement.

25
26 4. Named Plaintiffs David Chavez and Anthony Robles (“Named Plaintiffs”) are
27 hereby appointed and designated, for all purposes, as the representative of the class, and the
28

1 following attorneys are hereby appointed and designated as counsel for Named Plaintiffs and the
2 Class ("Class Counsel"):

3
4
5 Farzad Rastegar
RASTEGAR LAW GROUP
22760 Hawthorne Blvd. Suite 200
6 Torrance, CA 90505

7
8 Jessica Campbell
AEGIS LAW FIRM
9 9811 Irvine Center Dr #100
10 Irvine, CA 92618

11 Class Counsel is authorized to act on behalf of Class Members with respect to all acts or consents
12 required by, or which may be given pursuant to, the Settlement, and such other acts reasonably
13 necessary to consummate the Settlement.

14
15 5. The Court hereby approves on a preliminary basis the Stipulation and settlement
16 contained therein, including the definition and disposition of the Settlement Fund and related
17 matters provided for in the Stipulation. It appears to the Court on a preliminary basis that the
18 settlement amount and terms are fair, adequate and reasonable as to all potential Class Members
19 when balanced against the probable outcome of further litigation relating to liability and damages
20 issues. It further appears that extensive and costly investigation and research have been conducted
21 such that counsel for the Parties at this time are able to reasonably evaluate their respective
22 positions. It further appears to the Court that settlement at this time will avoid substantial
23 additional costs by all Parties, as well as avoid the delay and risks that would be presented by
24 further prosecution of the Action. It further appears that the Settlement has been reached as the
25 result of intensive, serious and non-collusive, arms-length negotiations.

26
27 6. A hearing (the "Settlement Hearing") shall be held before this Court on
28 _____, at _____.m. at the Superior Court of the State of California for the County

1 of San Bernardino, 247 W 3rd St, San Bernardino, CA 92415, to determine all necessary matters
2 concerning the Settlement, including: whether the proposed settlement of the Action on the terms
3 and conditions provided for in the Stipulation is fair, adequate and reasonable and should be
4 finally approved by the Court; whether a Judgment, as provided in the Stipulation, should be
5 entered herein; whether the plan of allocation contained in the Stipulation should be approved as
6 fair, adequate and reasonable to the Class Members; and to finally approve Class Counsel's Fees
7 and Costs Award, the Named Plaintiffs' Service Awards/General Release Payments, the PAGA
8 payment to the LWDA, and the settlement administration expenses. The Final Approval hearing
9 may be continued without further notice to Plaintiffs. The Parties shall file a Motion for Final
10 Approval and/or a Motion for Attorneys' Fees and Costs on or before _____, 2023.

11
12 7. The Court hereby approves, as to form and content, the Notice annexed as
13 Exhibit 1 to the Stipulation. The Court finds that the distribution of the Notice substantially in the
14 manner and form set forth in the Stipulation and this Order meets the requirements of due process,
15 is the best notice practicable under the circumstances, and shall constitute due and sufficient notice
16 to all persons entitled thereto.

17
18 8. The Court hereby appoints Phoenix Class Action Administration Solutions as
19 Settlement Administrator and hereby directs the Settlement Administrator to mail or cause to be
20 mailed to Plaintiffs the Notice by first class mail within fourteen (14) calendar days after the
21 receipt of the Class List and Data from Defendants (the "Notice Date") using the procedures set
22 forth in the Stipulation. Plaintiffs who do not opt out of the settlement will become Class
23 Members and will automatically receive their Individual Settlement Awards.

24
25 9. Any Plaintiff may choose to opt out of and be excluded from the Class as provided
26 in the Notice by following the instructions for requesting exclusion from the Class that are set
27 forth in the Notice. All requests for exclusion must be submitted as provided in the Notice. Any
28 such person who chooses to opt out of and be excluded from the Class will not be entitled to any

1 recovery under the Settlement and will not be bound by the Settlement or have any right to object,
2 appeal or comment thereon. Any written request to opt out must be signed by each such person
3 opting out. Class Members who have not timely and validly requested exclusion shall be bound
4 by all determinations of the Court, the Stipulation and Judgment.

5
6 10. Any Class Member may appear at the Settlement Hearing and may object or
7 express his or her views regarding the Settlement, and may present evidence and file briefs or
8 other papers, that may be proper and relevant to the issues to be heard and determined by the
9 Court as provided in the Notice. However, no Class Member, or any other person shall be heard
10 or entitled to object, and no papers or briefs submitted by any such person shall be received or
11 considered by the Court, unless on or before thirty (30) days after the Notice Date, that person has
12 served by hand or by first class mail written objections and copies of any papers and briefs in
13 support of their position and verification of their membership in the Class upon: (1) Rastegar Law
14 Group, attn. Farzad Rastegar, 22760 Hawthorne Blvd. Suite 200 Torrance, CA 90505; (2) Aegis
15 Law Firm, attn. Jessica Campbell, 9811 Irvine Center Dr #100 Irvine, CA 92618 ; and (3)
16 Sheppard, Mullin, Richter & Hampton LLP, attn.: Samantha Hardy and Carina Novell, 501 West
17 Broadway, 19th Floor, San Diego, CA 92101, and filed the objections, papers and briefs with the
18 Clerk of this Court. Any Class Member who does not make his or her objection in the manner
19 provided for in this Order shall be deemed to have waived such objection and shall forever be
20 foreclosed from making any objection to the Settlement.

21
22 11. To the extent permitted by law, pending final determination as to whether the
23 settlement contained in the Stipulation should be approved, the Plaintiffs, whether directly,
24 representatively, or in any other capacity, whether or not such persons have appeared in the
25 Action, shall not institute or prosecute any Released Claims against the Released Parties. The
26 Settlement is not a concession or admission, and shall not be used against Defendants or any of the
27 Released Parties as an admission or indication with respect to any claim of any fault or omission
28 by Defendants or any of the Released Parties. Whether or not the Settlement is finally approved,

1 neither the Settlement, nor any document, statement, proceeding or conduct related to the
2 Settlement, nor any reports or accounts thereof, shall in any event be:

- 3
- 4 a. Construed as, offered or admitted in evidence as, received as or deemed to be
5 evidence for any purpose adverse to the Released Parties, including, but not limited
6 to, evidence of a presumption, concession, indication or admission by Defendants
7 or any of the Released Parties of any liability, fault, wrongdoing, omission,
8 concession or damage; or
- 9
- 10 b. Disclosed, referred to, or offered or received in evidence against any of the
11 Released Parties in any further proceeding in the Action, or in any other civil,
12 criminal or administrative action or proceeding, except for purposes of settling the
13 Action pursuant to the Stipulation.

14

15 12. As of the date this Order is signed, all dates and deadlines associated with the
16 Action shall continue to be stayed, other than those related to the administration of the Settlement
17 of the Action.

18

19 13. In the event the Settlement does not become effective in accordance with the terms
20 of the Stipulation, or the Settlement is not finally approved, or is terminated, canceled or fails to
21 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
22 and the Parties shall revert to their respective positions as of before entering into the Stipulation.

23

24 14. The Court reserves the right to adjourn or continue the date of the Settlement
25 Hearing and all dates provided for in the Stipulation without further notice to Plaintiffs, and
26 retains jurisdiction to consider all further applications arising out of or connected with the
27 proposed Settlement.

1 Dated: _____

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THE HONORABLE DAVID COHN

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ANTHONY ROBLES and DAVID CHAVEZ,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

PEPSICO BEVERAGE SALES, LLC;
BOTTLING GROUP, LLC; CB
MANUFACTURING COMPANY, INC.; and
DOES 1 through 20, inclusive,

Defendants.

Case No. CIVSB2204715

**STIPULATION AND SETTLEMENT OF
CLASS CLAIMS**

Assigned for All Purposes to:
Hon. David Cohn

[Complaint Filed: March 25, 2022]
[FAC Filed: November 30, 2022]

FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

1 This matter having come before the Court for hearing pursuant to the Order of this Court
2 dated _____, for final approval of the settlement set forth in the Stipulation and Settlement
3 of Class Claims ("Stipulation" or "Settlement"), and due and adequate notice having been given to
4 the Plaintiffs as required in said Order, and the Court having considered all papers filed and
5 proceedings had herein and otherwise being fully informed of the premises and good cause
6 appearing therefor, it is

7
8 ORDERED, ADJUDGED AND DECREED THAT:

9
10 1. All terms used herein shall have the same meaning as defined in the Stipulation.

11
12 2. This Court has jurisdiction over the subject matter of this litigation and over all
13 Parties to this litigation, including all Plaintiffs.

14
15 3. Distribution of the Notice directed to the Plaintiffs as set forth in the Stipulation
16 and the other matters set forth therein has been completed in conformity with the Preliminary
17 Approval Order, including individual notice to all Plaintiffs who could be identified through
18 reasonable effort, and was the best notice practicable under the circumstances. This Notice
19 provided due and adequate notice of the proceedings and of the matters set forth therein, including
20 the proposed settlement set forth in the Stipulation, to all persons entitled to such Notice, and the
21 Notice fully satisfied the requirements of due process. ____ Plaintiffs objected to the Settlement.
22 ____ Plaintiffs opted out of the Settlement.

23
24 4. This Court hereby approves the settlement set forth in the Stipulation and finds that
25 the Settlement is, in all respects, fair, adequate and reasonable and directs the Parties to effectuate
26 the Settlement according to its terms. The Court finds that the Settlement has been reached as a
27 result of intensive, serious and non-collusive arms-length negotiations; that the Parties have
28 conducted extensive and costly investigation and research and counsel for the Parties are able to

1 reasonably evaluate their respective positions; and that settlement at this time will avoid additional
2 substantial costs, as well as avoid the delay and risks that would be presented by the further
3 prosecution of these Actions. The Court has reviewed the monetary recovery that is being granted
4 as part of the Settlement and recognizes the significant value to the Class of that monetary
5 recovery. The Court finds that the Class is properly certified as a class for settlement purposes
6 only.

7
8 5. For purposes of this Judgment, the term “Class” means “all current and former
9 hourly-paid and/or non-exempt employees employed by Defendants Bottling Group, LLC;
10 PepsiCo Beverage Sales, LLC; and CB Manufacturing Company, Inc. in the State of California
11 from January 1, 2020, through December 31, 2022.”

12
13 6. The term “Class Member” means a Plaintiff who has not requested exclusion from
14 the Settlement.

15
16 7. As of the Effective Date, each and every Released Claim of each and every Class
17 Member is and shall be deemed to be conclusively released as against the Released Parties. All
18 Class Members as of the Effective Date are hereby forever barred and enjoined from prosecuting
19 the Released Claims against the Released Parties.

20
21 8. The Final Judgment shall bind each Class Member (including Named Plaintiffs)
22 and shall operate as a full release and discharge of claims. The Final Judgment shall have a res
23 judicata effect and bar all Class Members from bringing any action asserting Released Claims as
24 specified in the Settlement against Defendants and the Released Parties, and it shall further bar
25 Named Plaintiffs only from bringing any action asserting any claims against Defendants and the
26 Released Parties that were released as part of the “General Release” agreed to by Named Plaintiffs
27 in the Settlement. The Court further finds that the Released Claims shall include Fair Labor
28 Standards Act (“FLSA”) claims for all Class Members under the doctrine of *res judicata* as

1 described in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (9th Cir. 2018),
2 regardless of whether that Class Member endorses and cashes his or her settlement check.

3
4 9. The Stipulation and Settlement are not an admission by Defendants or any of the
5 other Released Parties, nor is this Judgment a finding, of the validity of any claims in the Action
6 or of any wrongdoing by Defendants or any of the other Released Parties. Neither this Judgment,
7 the Stipulation, nor any document referred to herein, nor any action taken to carry out the
8 Stipulation is, may be construed as, or may be used as an admission by or against Defendants or
9 any of the other Released Parties of any fault, wrongdoing or liability whatsoever. The entering
10 into or carrying out of the Stipulation, and any negotiations or proceedings related thereto, shall
11 not in any event be construed as, or deemed to be evidence of, an admission or concession with
12 regard to the denials or defenses by Defendants or any of the other Released Parties and shall not
13 be offered in evidence in any action or proceeding against Defendants or any of the Released
14 Parties in any court, administrative agency or other tribunal for any purpose whatsoever other than
15 to enforce the provisions of this Judgment, the Stipulation, or any related agreement or release.
16 Notwithstanding these restrictions, any of the Released Parties may file in the Action or in any
17 other proceeding the Judgment, Stipulation, or any other papers and records on file in the Action
18 as evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or
19 other theory of claim or issue preclusion or similar defense as to the Released Claims.

20
21 10. The Court hereby dismisses the Action on the merits and with prejudice against the
22 Named Plaintiffs and all Class Members in favor of Plaintiffs and without costs or attorneys' fees
23 to any of the Parties as against any other settling party, except as provided for in the Stipulation.
24 Without affecting the finality of this Judgment in any way, this Court hereby retains continuing
25 jurisdiction over the interpretation, implementation and enforcement of the Settlement and all
26 orders and judgments entered in connection therewith.

1 11. The Court hereby approves a Service Award/General Release Payment to the
2 Named Plaintiffs in the amount of \$_____ each. The Court approves payment to the LWDA in
3 the amount of \$ _____. The Court also approves the payment of claims administration
4 expenses in the amount of \$_____.

5
6 12. With respect to attorneys' fees, the Court approves the amount of \$_____

7 based on a percentage of the recovery method. *See Laffitte v. Robert Half International Inc.* (2016)

8 1 Cal.5th 480, 503 ("when class action litigation establishes a monetary fund for the benefit of

9 class members, and the trial court in its equitable powers awards class counsel a fee out of that

10 fund, the court may determine the amount of a reasonable fee by choosing an appropriate

11 percentage of the fund created."). The Gross Settlement Amount of \$1,250,000 represents a true

12 common fund, as Defendants are obligated to pay this entire amount, and no portion of the

13 Settlement Fund will revert to Defendants. In addition, the Court finds that \$_____, which

14 represents _____ of the Gross Settlement Amount, is reasonable and appropriate. *See In re*

15 *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558 n.13 ("Empirical studies show that,

16 regardless whether the percentage method or the lodestar method is used, fee awards in class

17 actions average around one-third of the recovery."); *Chavez v. Netflix, Inc.* (2008) 162

18 Cal.App.4th 43, 66 n.11 (recognizing that fee awards in class actions average around one-third of

19 the recovery"). Cross-checking the reasonableness of this amount against Class Counsel's lodestar

20 further supports the reasonableness of the \$_____ attorneys' fees award. *See Laffitte*, 1

21 Cal.5th at 506 (trial courts have "discretion to conduct a lodestar cross-check on a percentage

22 fee."). Based on Class Counsel's lodestar, which the Court finds is reasonable, an award of

23 \$_____ is reasonable and appropriate.

24
25 13. The Court also finds that the \$_____ in litigation costs incurred by Class Counsel

26 were necessary and appropriate.

1 14. Accordingly, Court hereby approves payment of \$_____ in attorneys' fees
2 and \$_____ in litigation costs to Class Counsel.

3
4 15. After administration of the Settlement has been completed in accordance with the
5 Stipulation and all amounts calculated, and in no event later than one hundred and eighty (180)
6 days after the Check Stale Date, Defendants shall file a report with this Court setting forth the total
7 of the Gross Settlement Amounts for the Class Members and certifying compliance with the terms
8 of the Settlement.

9
10 16. Plaintiff's Motion for Final Approval of Class Action Settlement and Motion for
11 Attorneys' Fees and Costs and Class Representative Service Awards is hereby granted and the
12 Court directs that a judgment shall be entered in accordance with the terms of this Order.

13
14 17. Judgment in this matter is entered in accordance with the terms of the Settlement
15 Agreement, the Court's Preliminary Approval Order, and this Final Approval Order against
16 Defendants in favor of Plaintiffs and the Settlement Class. This document shall constitute a
17 Judgment for purposes of California Rule of Court 3.769(h). This Judgment is intended to be a
18 final disposition of the above captioned action in its entirety, and is intended to be immediately
19 appealable

20
21 18. The Court finds that the Stipulation is in good faith and constitutes a fair,
22 reasonable and adequate compromise of the Released Claims.

23
24 19. This Court shall retain jurisdiction with respect to all matters related to the
25 administration and consummation of the Settlement, to enforce the terms of the judgment, and any
26 and all claims, asserted in, arising out of, or related to the subject matter of the lawsuit, including
27 but not limited to all matters related to the Settlement and the determination of all controversies
28 relating thereto.

20. If the Settlement does not become final and effective in accordance with the terms of the Stipulation, resulting in the return and/or retention of the Settlement Fund to Defendants consistent with the terms of the Settlement, then this Judgment and all orders entered in connection herewith shall be rendered null and void and shall be vacated.

Dated: _____

THE HONORABLE DAVID COHN