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JESUS REAL SOQUI, individually and on
behalf of other persons similarly situated and aggrieved

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF STANISLAUS

JESUS REAL SOQUI, an individual, on behalf of
himself and on behalf of other persons similarly
situated and aggrieved,

Plaintiff,

vs.

BERTOLOTTI DISPOSAL, INC., a California
corporation; BERTOLOTTI PATTERSON
DISPOSAL, INC., a California corporation;
BERTOLOTTI MODESTO DISPOSAL, INC., a
California corporation; BERTOLOTTI NEWMAN
DISPOSAL, INC., a California corporation;
BERTOLOTTI'S CERES DISPOSAL, INC., a
California corporation; BERTOLOTTI
TRANSFER STATION, INC., a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. CV-22-002776

[Assigned for all purposes to the Honorable John
D. Freeland, Department 23]

**JOINT STIPULATION OF CLASS ACTION
SETTLEMENT AND RELEASE OF
CLAIMS**

Action Filed: June 23, 2022
Trial Date: None Set

HOGUE, FENTON, JONES & APPEL, INC.

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BERTOLOTTI DISPOSAL, INC., a California corporation;

BERTOLOTTI PATTERSON DISPOSAL, INC., a California corporation;

BERTOLOTTI MODESTO DISPOSAL, INC., a California corporation;

BERTOLOTTI NEWMAN DISPOSAL, INC., a California corporation;

BERTOLOTTI'S CERES DISPOSAL, INC., a California corporation; and

BERTOLOTTI TRANSFER STATION, INC., a California corporation

TABLE OF CONTENTS

Page

1.	Definitions.....	1
1.1.	“Action”	1
1.2.	“Agreement”	1
1.3.	“Class”	1
1.4.	“Class Counsel”	1
1.5.	“Class Member(s)”	2
1.6.	“Class Period”	2
1.7.	“Class Representatives”	2
1.8.	“Class Representative Service Awards”	2
1.10.	“Complaint”	2
1.11.	“Weeks Worked”	2
1.12.	“Defendants”	2
1.13.	“Defendants’ Counsel”	2
1.14.	“Effective Date”	3
1.15.	“Final Approval Order”	3
1.16.	“Final Approval Hearing”	3
1.17.	“Gross Settlement Amount”	3
1.18.	“Individual Class Payment”	4
1.19.	“Judgment”	4
1.20.	“LWDA Payment”	4
1.21.	“Net Settlement Amount”	4
1.22.	“Notice of Class Action Settlement”	4
1.23.	“Objection”	4
1.24.	“Parties”	4
1.25.	“Plaintiff”	5
1.26.	“Preliminary Approval Order”	5

1	1.27. “Released Claims”	5
2	1.28. “Released Parties”	5
3	1.29. “Request for Exclusion”	6
4	1.30. “Settlement”	6
5	1.31. “Settlement Administrator”	6
6	1.32. “Settlement Class”	6
7	1.33. “Settlement Class Member” refers to all Class Members who do not opt out of the Settlement.	6
8	1.34. “Non-Partici.....	6
9	1.35. “Pay Periods” refers to any pay period during which a Class Member worked for Defendants for at least one day during the PAGA Period.....	6
10		
11	2. Procedural History and Recitals	6
12	2.1. Causes of Action	6
13	2.2. The Parties Have Engaged In Extensive Informal, Pre-Mediation Discovery	7
14	2.3. Class Counsel’s Investigation.....	7
15	2.4. Defendants’ Denials	7
16	2.5. Class Counsel’s Evaluation	8
17	2.6. The Parties’ Intent.....	8
18	2.7. The Parties’ Agreement to Cooperate.....	8
19	3. NOTICE TO CLASS MEMBERS	8
20	3.1. Settlement Administrator	8
21	3.2. Class Data for Settlement Administrator	9
22	3.3. Confidentiality of Class Member Contact Information and Data.....	9
23	3.4. Mailing of Notice of Class Action Settlement and Request for Exclusion.....	9
24	3.5. Proof of Mailing.....	10
25	4. CLASS MEMBERS’ OPTIONS TO RESPOND	10
26	4.1. Class Members’ Consideration Period.....	10
27	4.2. Request for Exclusion and Opt Out Rights	10
28	4.3. Objection Rights	11

1	4.4.	Proof of Class Members’ Responses	12
2	4.5.	Binding Effect of Settlement	13
3	5.	DISTRIBUTION OF SETTLEMENT PROCEEDS	13
4	5.1.	Gross Settlement Amount	13
5	5.2.	Attorneys’ Fees and Costs	13
6	5.3.	Class Representative Service Awards	14
7	5.4.	Settlement Administration Costs	15
8	5.5.	LWDA Payment.	15
9	5.6.	Individual Class Payments from the Net Settlement Amount	16
10	5.7.	Distribution of Individual Class Payments and Individual PAGA Payments	17
11	5.8.	Timing of Individual Class Payments and Individual PAGA Payments	18
12	5.9.	Allocation of Individual Class Payments	18
13	5.10.	Tax Payment Considerations	19
14	5.11.	No Tax Advice or Liability	19
15	5.12.	No Impact on Contributions to Employee Benefit Plans	19
16	6.	RELEASES	20
17	6.1.	Release by Settlement Class Members and Aggrieved Employees	20
18	6.2.	Additional Release by Class Representatives	21
19	6.3.	Class Representative Acknowledgements	21
20	6.4.	Injunction from Pursuing Released Claims	22
21	6.5.	Acknowledgement of Binding Terms of the Settlement, Despite Other Potential Claims	22
22	6.6.	No Admission of Liability	22
23	7.	SETTLEMENT APPROVAL PROCEDURE	23
24	7.1.	Preliminary Approval	23
25	7.2.	Effect of Failure to Obtain Preliminary Approval	23
26	7.3.	Final Approval	23
27	7.4.	Motion for Attorneys’ Fees and Costs Award	24
28	7.5.	Entry of Judgment	24

1	7.6. Effect of Failure to Obtain Final Judgment.....	24
2	7.7. Waiver of Appeal Rights.....	24
3	8. MISCELLANEOUS	25
4	8.1. Interim Stay of Proceedings	25
5	8.2. Parties' Authority.....	25
6	8.3. Entire Agreement.....	25
7	8.4. Materiality of Terms	25
8	8.5. Counterparts.....	25
9	8.6. Facsimile or Scanned Signatures for This Agreement.....	26
10	8.7. Binding Effect.....	26
11	8.8. Waivers and Modifications to Be In Writing	26
12	8.9. Construction.....	26
13	8.10. Further Acts and Cooperation Between the Parties	27
14	8.11. No Prior Assignments or Undisclosed Liens.....	27
15	8.12. Waiver of Right to Object by the Class Representatives	27
16	8.13. No Solicitation of Objections	28
17	8.14. Discovery of Confidential Documents and Information.....	28
18	8.15. No Tax Advice.....	28
19	8.16. No Media Announcements	28
20	8.17. Continuing Jurisdiction	28
21	8.18. Disputes	28
22	8.19. Governing Law	29

EXHIBITS

24	Notice of Class Action Settlement.....	A
25	Request for Exclusion	B

1 This Joint Stipulation of Class Action Settlement Agreement and Release of Claims
2 (“Agreement”) is made and entered into between: (1) Plaintiff Jesus Real Soqui (“Real Soqui” or
3 “Plaintiff”) individually and on behalf of all current and former non-exempt, hourly employees working
4 for Defendants Bertolotti Disposal, Inc., Bertolotti Patterson Disposal, Inc., Bertolotti Modesto Disposal,
5 Inc., Bertolotti Newman Disposal, Inc., Bertolotti’s Ceres Disposal, Inc., and Bertolotti Transfer Station,
6 Inc. (collectively, “Defendants”) in California at any time between June 23, 2018 to April 10, 2023; and
7 (2) Defendants, subject to approval from the Court, as provided below.

8 This Release also applies to Class Members Daniel Martinez, Ernestina Dueñas, Amado Guizar,
9 and Raul Casas Hernandez, who have each submitted letters to the California Labor & Workforce
10 Development Agency (“LWDA”).

11 This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and
12 settle the Action (as defined below) and the Released Claims (as defined below), upon and subject to the
13 terms and conditions hereof, as follows:

14 **1. DEFINITIONS**

15 As used herein, for the purposes of this Agreement only, the following terms shall be defined as
16 set forth below:

17 1.1. **“Action”** refers to the civil action entitled: *Real Soqui v. Bertolotti Disposal, Inc.,*
18 *et al.*, Stanislaus County Superior Court Case No. CV-22-002776. The Action was filed as a class and
19 representative action.

20 1.2. **“Agreement”** refers to this Joint Stipulation of Class Action Settlement
21 Agreement and Release of Claims, which includes all of the Recitals and the Exhibits attached hereto.

22 1.3. **“Class”** refers to all current and former non-exempt, hourly employees working
23 for Defendants in California at any time between June 23, 2018 to April 10, 2023.

24 1.4. **“Class Counsel”** refers to Matthew J. Matern, Joshua D. Boxer, and Clare E.
25 Moran of Matern Law Group, PC. For purposes of providing any notices required under this
26 Agreement, Class Counsel shall refer to Joshua D. Boxer (jboxer@maternlawgroup.com) and Clare E.
27 Moran (cmoran@maternlawgroup.com), 1230 Rosecrans Avenue, Suite 200, Manhattan Beach,
28 California 90266.

1.5. **“Class Member(s)”** refers to any individual who is a member of the Class.

1.6. **“Class Period”** refers to the period of June 23, 2018 to April 10, 2023. The Class Period is based on a four-year statute of limitations period for state law claims, beginning on the date the Action was filed on June 23, 2022.

1.7. **“Class Representatives”** refer to the named Plaintiff in the Action, Jesus Real Soqui as well as Defendants’ employees/former employees Daniel Martinez, Ernestina Dueñas, Amado Guizar, and Raul Casas Hernandez, who have each submitted LWDA letters and would have been added as named plaintiffs in this Action had the litigation proceeded beyond mediation.

1.8. **“Class Representative Service Awards”** refers to any payments, subject to Court approval, to the Class Representatives from the Gross Settlement Amount in recognition of the efforts and work in prosecuting the Action on behalf of the Class Members.

1.9. **“Aggrieved Employees”** refers to all current and former hourly, non-exempt employees of Defendants in California at any time from June 23, 2021 to April 10, 2023 (i.e., the “PAGA Period”).

1.10. **“Complaint”** refers to the Complaint filed on June 23, 2022 in this Action.

1.11. **“Weeks Worked”** refers to any weeks when a Class Member worked for Defendants for at least one day during the Class Period, as reflected in Defendants’ records. Defendants’ data will be presumed to be correct, unless a particular Class Member proves otherwise to the Settlement Administrator by credible evidence. All disputes as to Weeks Worked will be resolved and decided by the Settlement Administrator, and the Settlement Administrator’s decision on all disputes as to Weeks Worked will be final and non-appealable.

1.12. **“Defendants”** refers to Defendant Bertolotti Disposal, Inc., Defendant Bertolotti Patterson Disposal, Inc., Defendant Bertolotti Modesto Disposal, Inc., Defendant Bertolotti Newman Disposal, Inc., Defendant Bertolotti’s Ceres Disposal, Inc., and Defendant Bertolotti Transfer Station, Inc.

1.13. **“Defendants’ Counsel”** refers to Hoge, Fenton, Jones & Appel, Inc. For purposes of providing any notices required under this Agreement, Defendants’ Counsel shall refer to

Jenn M. Protas (jenn.protas@hogefenton.com) and Rachel A. Garcia (rachel.garcia@hogefenton.com),
55 S. Market Street, Suite 900, San Jose, California 95113.

1.14. **“Effective Date”** refers to the 15th day after the date by which the last of the following has occurred: (a) all conditions of Settlement have been satisfied; (b) the Court has entered and filed the Final Approval Order and Judgment; and (c) the time period for appeal of the Judgment has been exhausted without any appeals having been filed, and/or all such appeals have been voluntarily or involuntarily dismissed, and/or the appropriate appellate court or courts have entered a final judgment affirming the Final Approval Order and Judgment of the Court and the final judgment of such appellate court or courts is no longer subject to any further appellate challenge or procedure. The Parties agree that only the Parties and/or Class Members who file a valid and timely Objection maintain the right to appeal.

1.15. **“Final Approval Order”** refers to the final order by the Court approving the Settlement following the Final Approval Hearing.

1.16. **“Final Approval Hearing”** refers to the hearing at which the Court will make a final determination whether the terms of the Agreement are fair, reasonable, and adequate for the Class and meet all applicable requirements for Final Approval.

1.17. **“Gross Settlement Amount”** refers to the maximum settlement payment Defendants may be obligated to make in connection with the Settlement or Agreement, which in this case is no more than \$975,000.00. This sum shall include all Individual Class Payments made to Class Members, all administration costs, the employees’ share of payroll taxes, the Class Representative Service Awards, the LWDA Payment (as defined below), interest, and attorneys’ fees and costs as set forth below. The Gross Settlement Amount shall not include the employer’s share of payroll taxes, which Defendants will separately pay.

The Gross Settlement Amount is a material term of this Agreement. To the extent Plaintiffs or the Court seeks to require Defendants to pay more than the Gross Settlement Amount as part of this Settlement or Agreement, Defendants shall retain the right, in the exercise of their sole discretion, to nullify the Settlement or Agreement.

1 1.18. **“Individual Class Payment”** refers to the pro rata share calculated by the
2 Settlement Administrator to be distributed to each individual Settlement Class Member, based on Weeks
3 Worked. The Individual Class Payment shall be paid from the Net Settlement Amount and shall include
4 the employee’s share of payroll taxes and withholdings.

5 1.19. **“Judgment”** refers to the final judgment by the Court approving the Settlement.

6 1.20. **“LWDA Payment”** refers to a payment out of the Gross Settlement Amount of
7 \$60,000.00, which shall be allocated as \$45,000.00 to the LWDA as the LWDA’s share of the
8 settlement of civil penalties paid under this Agreement pursuant to the Private Attorneys General Act
9 (“PAGA”), and as \$15,000.00 for distribution to the Aggrieved Employees (“Individual PAGA
10 Payments”).

11 1.21. **“Net Settlement Amount”** refers to the Gross Settlement Amount minus all
12 administration costs, the Class Representative Service Awards, the LWDA Payment, and attorneys’ fees
13 and costs. The Net Settlement Amount shall include all Individual Class Payments due to Class
14 Members, including the employees’ share of payroll taxes. The Net Settlement Amount is the maximum
15 amount that shall be available for distribution to Class Members.

16 The Net Settlement Amount is a material term of this Agreement. To the extent Plaintiffs
17 or the Court seeks to require Defendants to pay more than the Net Settlement as part of this Settlement
18 or Agreement, Defendants shall retain the right, in the exercise of their sole discretion, to nullify the
19 Settlement or Agreement.

20 1.22. **“Notice of Class Action Settlement”** refers to the Notice of Class Action
21 Settlement, substantially in the form attached as Exhibit A.

22 1.23. **“Objection”** refers to a timely, written, signed objection by a Class Member who
23 elects to object to the Settlement, substantially in the form detailed in the Notice of Class Action
24 Settlement.

25 1.24. **“Parties”** refers to (1) Plaintiff Jesus Real Soqui, Daniel Martinez, Ernestina
26 Dueñas, Amado Guizar, and Raul Casas Hernandez, individually and on behalf of all current and former
27 non-exempt, hourly employees working for Defendants in California at any time between June 23, 2018
28

and April 10, 2023 and, (2) Defendants Bertolotti Disposal, Inc., Bertolotti Patterson Disposal, Inc., Bertolotti Newman Disposal, Inc., Bertolotti Ceres Disposal, Inc., and Bertolotti Transfer Station, Inc.

1.25. **“Plaintiff”** refers to Jesus Real Soqui.

1.26. **“Preliminary Approval Order”** refers to the order issued and entered by the Court following a Motion for Preliminary Approval of the Settlement and this Agreement.

1.27. **“Released Claims”** refers to those claims defined in Section 6 of this Agreement. The Released Claims shall apply to all Settlement Class Members on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns. The scope of the Released Claims is a material term of this Agreement. To the extent Plaintiff or the Court seeks to modify the scope of the Released Claims in order to make it more narrow, Defendants shall retain the right, in the exercise of their sole discretion, to nullify the Settlement or Agreement.

All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint or LWDA Notices.

1.28. **“Released Parties”** refers to: (i) Defendants Bertolotti Disposal, Inc., Bertolotti Patterson Disposal, Inc., Bertolotti Modesto Disposal, Inc., Bertolotti Newman Disposal, Inc., Bertolotti’s Ceres Disposal, Inc., and Bertolotti Transfer Station, Inc.; (ii) each of Defendants’ respective past and present parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability company, partnership, affiliated medical entity, trust, foundation, and non-profit entity which controls, is controlled by, or is under common control with Defendants; (iii) the past and present shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing.

1 1.29. **“Request for Exclusion”** refers to a timely, written, signed opt-out request by
2 someone who otherwise would be a Class Member who elects to be excluded from the Class,
3 substantially in the form attached as Exhibit B to this Agreement.

4 1.30. **“Settlement”** refers to terms of this Agreement, which includes the Recitals and
5 the Exhibits attached hereto.

6 1.31. **“Settlement Administrator”** refers to the third party administrator, who has been
7 mutually selected by the Parties, subject to Court approval, to perform the notice, claims administration,
8 and distribution of payment functions further described in this Agreement. The Settlement
9 Administrator shall establish its own employer identification number and file an Internal Revenue
10 Service Form W-9. The Settlement Administrator shall meet all of the requirements to establish a
11 Qualified Settlement Fund (“QSF”) pursuant to U.S. Treasury Regulation Section 468B-1.

12 1.32. **“Settlement Class”** refers to all Class Members who do not file a timely and
13 valid opt-out Request for Exclusion.

14 1.33. **“Settlement Class Member”** refers to all Class Members who do not opt out of
15 the Settlement.

16 1.34. **“Non-Participating Class Members”** refers to any Class Member who opts out
17 of the Class (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

18 1.35. **“Pay Periods”** refers to any pay period during which a Class Member worked for
19 Defendants for at least one day during the PAGA Period.

20 2. **PROCEDURAL HISTORY AND RECITALS**

21 2.1. **Causes of Action.** On June 23, 2022, Plaintiff filed the Complaint against
22 Defendants on behalf of the Class. Plaintiff asserts 10 causes of action against Defendants: “(1) Failure
23 to Pay Minimum Wages; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Required Meal
24 Periods; (4) Failure to Provide Required Rest Periods; (5) Failure to Indemnify Employees for
25 Necessary Expenditures Incurred in Discharge of Duties; (6) Failure to Maintain Required Records; (7)
26 Failure to Furnish Accurate Itemized Wage Statements; (8) Failure to Pay All Wages Due to Discharged
27 and Quitting Employees; (9) Unfair and Unlawful Business Practices; and (10) Penalties under the
28 Labor Code Private Attorneys General Act, as a Representative Action.” The Complaint seeks unpaid

1 wages, actual damages, statutory damages, monetary damages, interest, statutory penalties, civil
2 penalties, liquidated damages, restitution, declaratory and injunctive relief, equitable relief, pre-
3 judgment interest, and attorneys' fees and costs.

4 **2.2. The Parties Have Engaged In Extensive Informal, Pre-Mediation Discovery.**

5 The Parties agreed to attend mediation before engaging in formal discovery. In preparation for
6 mediation, the parties exchanged extensive informal discovery responses. In advance of the mediation,
7 Defendant provided payroll and punch data for putative class members from June 23, 2018 through
8 December 18, 2022, and relevant policies and procedures. Plaintiff provided the payroll and punch data
9 to an expert for analysis. On Defendants' request, Plaintiff also responded to informal requests for
10 documents and information ahead of the mediation.

11 **2.3. Class Counsel's Investigation.** Class Counsel investigated the claims against
12 Defendants in the Action and also analyzed all applicable defenses raised by Defendants. The
13 investigation included review of the above-mentioned documents produced before mediation discovery,
14 interviewing Plaintiff and Class Members, several conferences between Class Counsel and Defendants'
15 Counsel, and Class Counsel's analysis of Defendants' time and pay records in consultation with their
16 retained experts. Class Counsel believes class certification would be appropriate in this Action after
17 formal discovery.

18 **2.4. Defendants' Denials.** Defendants timely denied and continue to deny: (a) all of
19 the allegations made by the Class Representatives or the Class in the Action; (b) that they violated any
20 applicable laws; (c) that they are liable or owe damages, penalties, or other compensation or remedies to
21 anyone with respect to the alleged facts or claims asserted in the Action; and, (d) that class certification
22 or representative treatment of the Action or any alleged claim is proper. Defendants emphasize that the
23 Court has not made any findings of liability as to Defendants and the Court has not determined that class
24 certification is warranted in this Action.

25 Nonetheless, without admitting or conceding any liability or wrongdoing whatsoever and without
26 admitting or conceding that class certification or representative treatment is appropriate for any purpose
27 other than settlement purposes alone, Defendants have agreed to settle the Action on the terms and
28 conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing the

1 Action. Any stipulations or statements by Defendants contained in this Agreement are made for
2 settlement purposes only.

3 **2.5. Class Counsel's Evaluation.** Based on Class Counsel's investigation and
4 evaluation, Class Counsel is of the opinion that the terms set forth in this Agreement are fair, reasonable,
5 adequate, and in the best interest of the Class Members. Class Counsel diligently and effectively
6 investigated Plaintiff's claims, drafted the Complaint, interviewed Class Members, prepared and
7 responded to informal discovery, reviewed and analyzed documents produced, and analyzed
8 Defendants' time and pay records in consultation with their retained experts. Class Counsel concluded
9 that the Settlement reflected in this Agreement is in the best interests of the Class, after reviewing the
10 above-mentioned documents and data, completing interviews with Plaintiff and Class Members,
11 conferring with Defendants' Counsel, and evaluating the risk that further litigation might result in
12 Plaintiff and the Class not recovering anything at all was a very significant factor in determining that
13 this Agreement is fair, reasonable, and adequate.

14 **2.6. The Parties' Intent.** It is the desire of the Parties to fully, finally, and forever
15 settle, compromise, and discharge any and all claims, rights, demands, charges, complaints, causes of
16 action, obligations, or liability of any and every kind that were or could have been asserted in the
17 Action, to the extent that such claims arise out of the alleged facts, circumstances, and occurrences
18 underlying the allegations as set forth in the claims in the Complaint in the Action.

19 **2.7. The Parties' Agreement to Cooperate.** The Parties agree to cooperate and to
20 take all steps necessary and appropriate to effectuate all aspects of this Agreement, to obtain a
21 Preliminary Approval Order and Final Approval Order of this Settlement, and to dismiss the Action and
22 claims of Class Members with prejudice upon final approval.

23 **NOW THEREFORE**, in consideration of the covenants and agreements set forth herein, and of
24 the release and dismissal of all Released Claims, the Parties stipulate and agree to the terms and
25 provisions of this Settlement and Agreement, subject to the approval of the Court.

26 **3. NOTICE TO CLASS MEMBERS**

27 **3.1. Settlement Administrator.** The Parties request that the Court appoint Phoenix
28 Class Action Administration Solutions as Settlement Administrator. The Settlement Administrator will

1 be paid an amount from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
2 accordance with its “not to exceed” bid submitted to the Court in connection with the Preliminary
3 Approval of the Settlement. All disputes relating to the Settlement Administrator’s performance of its
4 duties, after good-faith efforts by the Parties to first resolve such disputes, will be referred to the Court,
5 if necessary, which will have continuing jurisdiction over this Agreement until all payments and
6 obligations contemplated by this Agreement have been fully completed.

7 **3.2. Class Data for Settlement Administrator.** Within 30 calendar days of the entry
8 of a Preliminary Approval Order of this Agreement, Defendants shall provide to the Settlement
9 Administrator with the following information: (1) name of each Class Member; (2) most current known
10 address, phone number, and/or email address of each Class Member; (3) social security number of each
11 Class Member; (4) number of Weeks Worked in the Class Period; and (5) number of Pay Periods
12 worked in the PAGA Period (“Class Data”).

13 **3.3. Confidentiality of Class Member Contact Information and Data.** The contact
14 information is being provided confidentially, and the Settlement Administrator shall treat the
15 information as private and confidential and take all necessary precautions to maintain the confidentiality
16 of contact information of the Class Member. This information is to be used only to carry out the
17 Settlement Administrator’s duties as specified in this Settlement Agreement. The Settlement
18 Administrator shall return the Class Data to Defendants or confirm its destruction upon completion of
19 the Settlement Administrator’s duties in administering the Settlement.

20 **3.4. Mailing of Notice of Class Action Settlement and Request for Exclusion.** The
21 Settlement Administrator shall mail the Notice of Class Action Settlement and Request for Exclusion to
22 Class Members within 14 calendar days of receiving the Class Data from Defendants. The Settlement
23 Administrator shall send the Notice of Class Action Settlement and Request for Exclusion to Class
24 Members via First Class U.S. Mail, using the most current known mailing address for each Class
25 Member based on information provided by Defendants. Upon receipt of this information from
26 Defendants, the Settlement Administrator shall perform a search based on the National Change of
27 Address Database maintained by the United States Postal Service to update and correct any known or
28 identifiable address changes.

1 **3.4.1 Re-mailing of Returned Notices.** Any mailing returned to the Settlement
2 Administrator as undeliverable shall be sent within three business days via First Class U.S. Mail to the
3 forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator
4 shall attempt to determine the correct address by again using the National Change of Address Database
5 maintained by the United States Postal Service to update and correct any known or identifiable address
6 changes. Following this procedure, the Settlement Administrator shall perform a single re-mailing via
7 First Class U.S. Mail within three business days.

8 **3.4.2 Content of the Notice of Class Action Settlement.** The Notice of Class
9 Action Settlement shall be substantially in the form attached as Exhibit A to this Agreement.

10 **3.4.3 Content of the Request for Exclusion.** The Request for Exclusion shall
11 be substantially in the form attached as Exhibit B to this Agreement.

12 **3.5. Proof of Mailing.** At least five calendar days prior to the Final Approval
13 Hearing, the Settlement Administrator shall provide a declaration of due diligence and proof of mailing
14 with regard to mailing of the Notice of Class Action Settlement to Class Counsel and Defendants'
15 Counsel, which they shall in turn provide to the Court.

16 **4. CLASS MEMBERS' OPTIONS TO RESPOND**

17 **4.1. Class Members' Consideration Period.** Class Members shall be provided 45
18 calendar days to exercise any rights with regard to the Settlement, following the postmark date of the
19 initial mailing of the Notice of Class Action Settlement and the Request for Exclusion. Except as
20 specifically provided herein, no Class Member responses of any kind that are postmarked more than 45
21 calendar days after the initial mailing of Class Notice shall be considered. Responses from Class
22 Members must be postmarked for mail with the U.S. Postal Service. Responses sent by facsimile, email,
23 or other forms of electronic transmission will not be considered.

24 **4.2. Request for Exclusion and Opt Out Rights.** Class Members shall be given the
25 opportunity to opt out of the Settlement.

26 **4.2.1 Opt Out Procedures.** Class Members may opt out of the Settlement by
27 mailing to the Settlement Administrator a Request for Exclusion, substantially in the form attached as
28 Exhibit B. Any such Request for Exclusion must be postmarked not more than 45 calendar days after

1 the postmark date of the initial mailing of the Notice of Class Action Settlement and the Request for
2 Exclusion. To be a valid Request for Exclusion, a Class Member must provide his/her/their name (and
3 former names, if any, which were used while employed by Defendants, or other identifying information
4 to confirm identity), current address, and current telephone number. Any Request for Exclusion that
5 does not include all of the required information or that is not submitted in a timely manner will be
6 deemed null, void, and ineffective. If there is a dispute regarding the timeliness or validity of a Request
7 for Exclusion, the Settlement Administrator shall make the determination, after consultation with Class
8 Counsel and Defendants' Counsel. Requests for Exclusion from Class Members must be postmarked
9 for mail with the U.S. Postal Service. Requests for Exclusion sent by facsimile, email, or other forms of
10 electronic transmission will not be considered.

11 **4.2.2 Effect of Opt Out.** Any Class Member who opts out of the Settlement
12 may not object to the Settlement, shall not receive any Individual Class Payment, and shall not be bound
13 by the Released Claims provisions in this Agreement. If a Class Member submits both a Request for
14 Exclusion and an Objection, the Class Member's Objection will be valid and be deemed to invalidate the
15 Request for Exclusion.

16 Each Class Member who does not opt out of the Settlement shall be bound by the applicable
17 Released Claims provisions in this Agreement, including the Released Claims.

18 **4.2.3 Defendants' Rights to Withdraw.** Defendants have the right, at their
19 sole option, to withdraw from this Settlement or Agreement if the number of Class Members opting out
20 exceeds five percent (5%) of the total number of Class Members. These rights to withdraw are material
21 terms of the Agreement and Defendants have the right, at their sole option, to withdraw from this
22 Agreement if either of these material terms are not approved by the Court. If Defendants exercise this
23 right to withdraw, they will be responsible for all Settlement Administration Costs incurred by the
24 Administrator.

25 **4.3. Objection Rights.** Because the Settlement Class will be certified by the Court,
26 only Class Members who do not opt out of the Settlement shall be entitled to object to the terms of the
27 Settlement.
28

1 **4.3.1 Objection Procedures.** Class Members' objections to the Settlement or
2 this Agreement must be made using the procedures set forth in the Notice of Class Action Settlement.
3 Any Objection must be sent to the Settlement Administrator and postmarked no later than 45 days after
4 the first postmark date of mailing the Notice of Class Action Settlement. An Objection shall be deemed
5 to be submitted as of the postmarked date. The written Objection must contain: (1) the name and case
6 number of this lawsuit, *Real Soqui v. Bertolotti Disposal, Inc., et al.*, Stanislaus County Superior Court
7 Case No. CV-22-002776; (2) the full name, last four digits of their Social Security Number, and current
8 address of the Class Member making the Objection; (3) the specific reason(s) for the Objection; and
9 (4) any and all evidence and supporting papers (including, without limitation, all briefs, written
10 evidence, and declarations) for the Court to consider. Class Members who submit an Objection remain
11 bound by this Agreement.

12 Objections from Class Members must be postmarked for mail with the U.S. Postal Service.
13 Objections sent by facsimile, email, or other forms of electronic transmission will not be considered.

14 **4.3.2 Individuals Who Submit an Objection May Appear by Giving Notice.**
15 Class Members who timely submit an Objection shall have the right to appear at the Final Approval
16 Hearing either in person or through counsel but must state their intent to do so at the time they submit
17 their written Objection. Class Members may withdraw their Objections at any time.

18 **4.3.3 Waiver of Objection Rights.** Class Members who fail to make
19 Objections in the manner specified in the Notice of Class Action Settlement shall be deemed to have
20 waived any Objections and shall be foreclosed from making any Objection, whether by appeal or
21 otherwise, to this Agreement.

22 **4.4. Proof of Class Members' Responses.** By not later than 75 calendar days after
23 the initial mailing of the Notice of Class Action Settlement and Request for Exclusion, the Settlement
24 Administrator will prepare and submit a declaration attesting to (by number of relevant individuals) its
25 mailing of the Notice of Class Action Settlement, its inability to deliver any mailing due to invalid
26 addresses, and its receipt of valid Requests for Exclusion. Five calendar days prior to the Final
27 Approval Hearing, the Settlement Administrator will prepare a supplemental declaration to submit to the
28 Court, to indicate the number of valid timely claims, objections, and opt out Requests for Exclusion.

1 4.5. **Binding Effect of Settlement.** Although some Class Members might not receive
2 or timely submit the Notice of Class Action Settlement or the Request for Exclusion, as provided under
3 this Settlement and Agreement, due to inability to locate their current address following the procedures
4 set forth in this Agreement, such individuals shall nonetheless be bound by all of the terms of this
5 Settlement and Agreement and the Final Order and Dismissal with Prejudice.

6 **5. DISTRIBUTION OF SETTLEMENT PROCEEDS**

7 5.1. **Gross Settlement Amount.** Defendants agree to pay up to a maximum Gross
8 Settlement Amount of \$975,000.00. The \$975,000.00 Gross Settlement Amount refers to the maximum
9 settlement payment Defendants may be obligated to make in connection with the Settlement or
10 Agreement and shall include all Individual Class Payments made to Class Members, all administration
11 costs, the employees' share of payroll taxes, the Class Representative Service Awards, the LWDA
12 Payment, and attorneys' fees and costs.

13 5.2. **Attorneys' Fees and Costs.** Class Counsel may request—and Defendants agree
14 not to oppose—that the Court approve an attorneys' fees and costs award for: (a) attorneys' fees in an
15 amount up to one third (33%) of the Gross Settlement Amount (or \$325,000.00) and (b) reasonable and
16 documented attorney costs. Except as provided in this Agreement, Defendants shall have no liability for
17 any other attorneys' fees or costs. Expenses are part of, and deducted from, the Gross Settlement
18 Amount. Any portion of the Attorneys' Fees and Costs not awarded by the Court shall be added to the
19 Net Settlement Amount.

20 5.2.1 **Approval of Attorneys' Fees and Costs Award Not Material.** The
21 Court's approval of an attorneys' fees or costs award is not a material term of the Settlement or this
22 Agreement. If the Court does not approve or approves only a lesser amount than that requested by Class
23 Counsel for attorneys' fees or costs, the other terms of the Settlement and this Agreement shall still
24 apply. The Court's refusal to approve the attorneys' fees or costs award requested by Class Counsel
25 does not give the Class Representative, the Class Members, or Class Counsel any basis to abrogate the
26 Settlement or this Agreement. Any amount of an attorneys' fees and costs award requested by Class
27 Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.
28

1 **5.2.2 Timing of Payment of Attorneys' Fees and Costs.** The Settlement
2 Administrator shall pay to Class Counsel any approved attorneys' fees and costs award 14 calendar days
3 after the full funding of the Gross Settlement Amount as set forth in Section 5.1. Class Counsel agrees
4 that Class Counsel is responsible for allocating this payment among themselves and any other counsel
5 for Plaintiffs settling claims through this Agreement. The Settlement Administrator shall issue an
6 Internal Revenue Service Form 1099 to Class Counsel for any attorneys' fees and costs award payment.
7 Class Counsel shall be solely and legally responsible for paying all applicable taxes on any attorneys'
8 fees and costs award payments and shall indemnify and hold harmless Defendants from any claim or
9 liability for taxes, penalties, or interest arising as a result of the payment.

10 **5.3. Class Representative Service Awards.** Class Counsel may request—and
11 Defendants agree not to oppose—that the Court approve a Class Representative Service Awards of:
12 \$5,000.00 for Plaintiff Jesus Real Soqui; \$5,000.00 for Class Member Daniel Martinez; \$2,500.00 for
13 Class Member Ernestina Dueñas; \$2,500.00 for Class Member Amado Guizar; and \$2,500 for Class
14 Member Raul Casas Hernandez. Mr. Martinez, Ms. Dueñas, Mr. Guizar, and Mr. Casas Hernandez have
15 each submitted LWDA letters and would have been added to the Action as named plaintiffs and class
16 representatives had the litigation proceeded beyond mediation. The Class Representative Service
17 Awards are for these individuals' additional participation in the Action, including participating in
18 interviews and in the mediation itself. The Parties agree that a \$5,000.00 award is fair for Plaintiff
19 Soqui, who has lent his name to this Action and who has done the most work out of these five
20 individuals in furtherance of it. The Parties further agree that an award of \$5,000.00 is fair for Mr.
21 Martinez, and awards of \$2,500.00 each is fair for Ms. Dueñas, Mr. Guizar, and Mr. Casas Hernandez,
22 who have joined the case more recently. Such payments shall not be subject to payroll taxes or
23 withholdings. Any Class Representative Service Award is in addition to each Class Representative's
24 Individual Class Payment and Individual PAGA Payment.

25 **5.3.1 Class Representative Service Award Not Material.** The Court's
26 approval of the Class Representative Service Awards is not a material term of the Settlement or this
27 Agreement. If the Court does not approve or approves only a lesser amount than that requested by Class
28 Counsel for each Class Representative Service Award, the other terms of the Settlement and this

1 Agreement shall apply. The Court’s refusal to approve the Class Representative Service Awards
2 requested by Class Counsel does not give either of the Class Representatives or Class Counsel any basis
3 to abrogate the Settlement or this Agreement. Any amount of a Class Representative Service Award
4 requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement
5 Amount.

6 **5.3.2 Timing of Class Representative Service Award.** The Settlement
7 Administrator shall pay to the Class Representative any approved Class Representative Service Awards
8 14 calendar days after the initial funding of the Gross Settlement Amount set forth in Section 5.1. The
9 Settlement Administrator shall issue an IRS Form 1099 to each Class Representative for any Class
10 Representative Service Awards. The Class Representatives shall be solely and legally responsible for
11 paying all applicable taxes on any Class Representative Service Awards and shall indemnify and hold
12 harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the
13 payment.

14 **5.4. Settlement Administration Costs.** Class Counsel intends to request—and
15 Defendants agree not to oppose—that the Court approve reasonable Settlement Administration Costs in
16 accordance with the Settlement Administrator’s “not to exceed” bid. Upon completion of administration
17 of the Settlement, the Settlement Administrator shall provide written certification of such completion to
18 Class Counsel and Defendants’ Counsel. The Parties agree to cooperate in the settlement administration
19 process and to make all reasonable efforts to control and to minimize settlement administration costs.

20 **5.5. LWDA Payment.** The Parties will seek approval for a PAGA payment out of the
21 Gross Settlement Amount of \$60,000.00, which shall be allocated as \$45,000.00 to the LWDA as the
22 LWDA’s share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA, and
23 as \$15,000.00 to the Aggrieved Employees.

24 **5.5.1 Modification of LWDA Payment Not Material.** The Court’s reduction
25 or increase of a LWDA Payment is not a material term of the Settlement or this Agreement. If the Court
26 approves only a lesser amount or a higher amount than that requested by Class Counsel for the LWDA
27 Payment, the other terms of the Settlement and this Agreement shall apply. The Court’s reduction or
28

1 increase of the LWDA Payment requested by Class Counsel does not give the Class Representatives or
2 Class Counsel any basis to abrogate the Settlement or this Agreement.

3 However, the Court's approval of an LWDA Payment is a material term of the Settlement or this
4 Agreement. If the Court does not approve an LWDA Payment set forth in this Agreement, then the
5 LWDA Payment shall be made in the amount required by the Court. If the Court requires the LWDA
6 Payment to be higher than as stated in this Agreement, the additional funds for the LWDA Payment
7 shall be taken from the Gross Settlement Amount. Thus, the Gross Settlement Amount shall not be
8 increased in the Court requires a larger LWDA Payment.

9 **5.6. Individual Class Payments from the Net Settlement Amount.** This Settlement
10 shall be a non-reversionary Settlement. Each Settlement Class Member who does not opt out of the
11 Settlement shall be entitled to an Individual Class Payment consisting of their share of the Net
12 Settlement Amount, in accordance with the formula set forth below. Class Members who opt out shall
13 nonetheless be entitled to receive their Individual PAGA payment.

14 **5.6.1 Individual Settlement Calculations and Payments.** Each Class Member
15 will be eligible to receive a portion of the Net Settlement Amount in accordance with the following
16 formula:

17 Each Class Member's potential share of the Net Settlement Amount will
18 be calculated by dividing the number of Weeks Worked by the Class
19 Member by all Weeks Worked during the Class Period by all Settlement
20 Class Members, multiplied by the Net Settlement Amount [*i.e.*, (individual
21 Weeks Worked ÷ total Weeks Worked by Class Members) x Net
22 Settlement Amount].

23 The portion of the LWDA Payment allocated to the Aggrieved Employees shall be distributed to
24 Aggrieved Employees based on number of Pay Periods worked during the PAGA Period. Class
25 Members who opt out of the class portion of the Settlement and worked during the PAGA Period will
26 receive their Individual PAGA Payment, even if they opt out.

27 **5.6.2 Disputes Regarding Weeks Worked.** The Notice of Class Action
28 Settlement will list each Class Member's number of Weeks Worked, for purposes of determining the
Individual Class Payment. If a Class Member disputes the number of Weeks Worked on the Notice of
Class Action Settlement, the Class Member must produce, by no later than 14 calendar days from the
date the Notice of Class Action Settlement is postmarked, evidence to the Settlement Administrator

1 showing that such information is inaccurate. All disputes will be decided within seven calendar days
2 from the date the dispute is received by the Settlement Administrator. The Settlement Administrator
3 shall have the authority to determine the outcome of any disputes but may contact Class Counsel and/or
4 Defendants' Counsel to seek their input.

5 **5.7. Distribution of Individual Class Payments and Individual PAGA Payments.**

6 Each Settlement Class Member's portion of the Net Settlement Amount and each Aggrieved
7 Employee's Individual PAGA Payment shall be distributed, collectively, as one check.

8 **5.7.1 Settlement Checks.** The settlement check shall be for the amount of each
9 Settlement Class Member's Individual Class Payment and each Aggrieved Employee's Individual
10 PAGA Payment. To the extent the check includes an Individual Class Payment, the check will include
11 language indicating that endorsing and cashing the check will constitute a release of claims under the
12 California Labor Code, California Unfair Competition Law, and PAGA, for any and all claims asserted
13 or that could have been asserted based on the facts alleged in the Action. The language to be included
14 will be substantially similar to the following:

15
16 My signature or cashing of this check constitutes a full and complete
17 release of Bertolotti Disposal, Inc., Bertolotti Patterson Disposal, Inc.,
18 Bertolotti Modesto Disposal, Inc., Bertolotti Newman Disposal, Inc.,
19 Bertolotti's Ceres Disposal, Inc., and Bertolotti Transfer Station, Inc., and
20 each of their respective past and present parents, subsidiaries, and
21 affiliates including, without limitation, any corporation, limited liability
22 company, partnership, affiliated medical entity, trust, foundation, and non-
23 profit entity which controls, is controlled by, or is under common control
24 with them, and their past and present shareholders, directors, officers,
25 agents, employees, attorneys, insurers, members, partners, managers,
26 contractors, consultants, representatives, administrators, fiduciaries,
27 benefit plans, transferees, predecessors, successors, and assigns of any of
28 the foregoing, and any individual or entity which could be jointly liable
with any of the foregoing, for any and all claims asserted or that could
have been asserted based on the facts alleged in the operative Complaint in
the lawsuit entitled *Real Soqui v. Bertolotti Disposal, Inc., et al.*, pending
in Stanislaus County Superior Court, Case No. CV-22-002776, including
the claims brought under the California Labor Code, California Unfair
Competition Law, or PAGA, arising during my employment at any time
between June 23, 2018 to the earlier of either: (i) April 10, 2023 or (ii) the
date of preliminary approval of the Settlement.

1 **5.8. Timing of Individual Class Payments and Individual PAGA Payments.** The
2 Settlement Administrator shall issue the distribution of the Individual Class Payments and Individual
3 PAGA Payments no later than 14 calendar days after the funding of the Gross Settlement Amount.

4 **5.9. Allocation of Individual Class Payments.** Each Settlement Class Member's
5 Individual Class Payment will be characterized as 80% Form 1099 income and 20% Form W-2 income,
6 to reflect that 80% of the payment will account for penalties and interest, while 20% will account for
7 unpaid wages. Each Aggrieved Employees' Individual PAGA Payment shall be characterized as 100%
8 1099 penalties. In accordance with applicable tax laws, required tax withholdings and payroll
9 deductions will be taken from each Individual Class Payment for the portion allocated to Form W-2
10 income and remitted to the appropriate taxing authorities. The Settlement Administrator shall issue any
11 necessary IRS Form 1099 and Form W-2 statements to Class Members for their respective Individual
12 Class Payments. Settlement Class Members shall be solely and legally responsible for paying all other
13 applicable taxes on their respective Individual Class Payments and shall indemnify and hold harmless
14 Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the payments.
15 In allocating the Individual Class Payments, the Parties agree that, pursuant to applicable law, all
16 payments for wages shall be subject to payroll tax withholdings and a Form W-2, while all payments for
17 penalties shall not be subject to payroll tax withholdings and will be recorded on a Form 1099.

18 **5.9.1 Allocation of Individual Class Payment Not Material.** The Court's
19 approval of the allocation of the Individual Class Payment for Form 1099 income and Form W-2 income
20 is not a material term of the Settlement or this Agreement. If the Court does not approve or approves a
21 different allocation of the Individual Class Payments, the other terms of the Settlement and this
22 Agreement shall apply. The Court's refusal to approve the allocation for the Individual Class Payments
23 requested by the Parties does not give the Parties any basis to abrogate the Settlement or this Agreement.

24 **5.9.2 Undeliverable or Uncashed Checks.** Any settlement checks distributing
25 Individual Class Payments and/or Individual PAGA Payments returned to the Settlement Administrator
26 as undeliverable shall be sent within five calendar days via First Class U.S. Mail to the forwarding
27 address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall attempt
28 to determine the correct address using the National Change of Address Database maintained by the

1 United States Postal Service, and it shall then perform a re-mailing within five calendar days. Any
2 checks issued by the Settlement Administrator to Settlement Class Members and Aggrieved Employees
3 shall remain negotiable for at least 180 calendar days. If a Settlement Class Member or Aggrieved
4 Employee does not cash the check for his/her/their Individual Class Payments and/or Individual PAGA
5 Payments within 180 calendar days of issuance, the funds from such uncashed checks or returned checks
6 will be distributed to a *cy pres*, Safe Place for Youth.

7 **5.10. Tax Payment Considerations.** Class Counsel, Defendants’ Counsel,
8 Defendants, and the Settlement Administrator are not giving any tax advice in connection with the
9 Settlement or any payments to be made pursuant to this Agreement.

10 **5.11. No Tax Advice or Liability.** Each Class Member agrees to indemnify, and to
11 hold harmless, Defendants from any liability for taxes, fees, costs, or assessments resulting from his or
12 her failure to timely pay taxes, interest, fees, or penalties owed.

13 **5.12. No Impact on Contributions to Employee Benefit Plans.** None of the
14 payments made pursuant to the Settlement and this Agreement shall be considered to alter the terms or
15 to grant any rights to additional payments under any employee benefit plans. None of the payments
16 made pursuant to the Settlement and this Agreement shall be considered for purposes of determining
17 eligibility for, vesting or participation in, or contributions to any benefit plan, including, without
18 limitation, all plans subject to the Employee Retirement and Income Security Act of 1974 (“ERISA”).
19 Any distribution of payments to Plaintiffs, Settlement Class Members, or Aggrieved Employees shall
20 not be considered as a payment of wages or compensation under the terms of any applicable benefit plan
21 and shall not affect participation in, eligibility for, vesting in, the amount of any past or future
22 contribution to, or level of benefits under any applicable benefit plan.

23 Any amounts paid will not impact or modify any previously credited hours of service or
24 compensation taken into account under any bonus or incentive plan, benefit plan sponsored or
25 contributed to by Defendants, or any jointly-trusted benefit plan, or for purposes of calculating the
26 regular rate of pay. For purposes of this Agreement, “benefit plan” means each and every “employee
27 benefit plan,” as defined in 29 U.S.C. Section 1002(3), and, even if not thereby included, any 401(k)
28 plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare, profit sharing,

1 retirement, disability, vacation, severance, hospitalization, insurance, incentive, deferred compensation,
2 or any other similar benefit plan, practice, program, or policy.

3 **6. RELEASES**

4 6.1. **Release by Settlement Class Members** and Aggrieved Employees. By operation
5 of the entry of the Final Approval Order and judgment, each Settlement Class Member, and each of their
6 respective executors, administrators, representatives, agents, heirs, successors, assigns, trustees, spouses,
7 or guardians, will release Defendants and each of the Released Parties of and from any and all claims,
8 rights, demands, charges, complaints, causes of action, obligations, or liability of any and every kind
9 between June 23, 2018 to the earlier of either (i) April 10, 2023 or (ii) the date of preliminary approval
10 of the Settlement, for any and all claims that were raised or could have been raised based on the factual
11 allegations made in the Complaint. This includes but is not limited to: (1) failure to pay minimum
12 wages; (2) failure to pay overtime wages at the regular rate of pay; (3) failure to provide required meal
13 periods; (4) failure to provide required rest periods; (5) failure to indemnify employees for necessary
14 expenditures incurred in discharge of duties; (6) failure to maintain required records; (7) failure to
15 furnish accurate itemized wages statements; (8) failure to pay all wages due to discharged and quitting
16 employees; (9) PAGA claims for civil penalties due to any Labor Code violations by Defendants arising
17 out of or related to events alleged in the Complaint including, but not limited to, Labor Code sections
18 200, 201, 202, 203, 204, 210, 221, 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194,
19 1194.2, 1197, 1197.1, 1198, 1199, 2698-2699.5, and 2802; (10) claims brought under Business &
20 Professions Code section 17200 *et seq.* including, but not limited to, all claims for unfair, unlawful and
21 harmful conduct to class members, the general public and Defendants' competitors and claims of
22 unlawfully gaining an unfair advantage over other businesses; (11) any and all claims arising out of
23 alleged violations of the California Labor Code, including sections 200, 201, 202, 203, 204, 210, 221,
24 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199,
25 2698-2699.5, and 2802, and California Industrial Welfare Commission Wage Order No. 9-2001;
26 (12) penalties of any nature, interest, or attorneys' fees and costs arising out of any claims that were
27 raised or could have been raised based on the factual allegations made in the operative Complaint
28 through final approval of the Settlement; and (13) any other claims that were raised or could have been

1 raised based on the factual allegations made in the Complaint through final approval of the Settlement.
2 All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of
3 themselves and their respective former and present representatives, agents, attorneys, heirs,
4 administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that
5 were alleged, or reasonably could have been alleged, based on the facts stated in the Operative
6 Complaint or LWDA Notices.

7 **6.2. Additional Release by Class Representatives.** In addition to the above release
8 applicable to the Settlement Class Members, the Class Representatives also generally release any and all
9 claims against Defendants and each of the Released Parties. This general release includes any and all
10 claims arising from the employment relationship with Defendants or any Released Party, including,
11 without limitation, claims for wrongful termination, discrimination, harassment, or retaliation pursuant
12 to Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 *et seq.*, the California Fair
13 Employment and Housing Act, California Government Code Section 12900 *et seq.*, or the California
14 Labor Code. This general release by the Class Representatives also includes a waiver of California Civil
15 Code Section 1542. The Class Representatives expressly waive all rights provided by California Civil
16 Code Section 1542, or other similar statutes, that the Class Representatives may have against Defendants
17 and each of the Released Parties. California Civil Code Section 1542 states:

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

21 **6.3. Class Representative Acknowledgements.** The Class Representatives
22 acknowledge that they have read this Agreement in its entirety, including the above language from the
23 California Civil Code, and that they fully understand both this Agreement and the California Civil Code
24 section. By executing this Agreement, Class Representatives expressly waive any benefits and rights
25 granted pursuant to California Civil Code Section 1542 or any statute, rule, or principle of common law
26 or equity, in any jurisdiction, that is similar, comparable, or equivalent, in whole or in part, to California
27 Civil Code Section 1542. The Class Representatives acknowledge and agree that this knowing and
28

1 voluntary waiver is an essential and material term of this Agreement, and the Agreement would not have
2 been entered into without such a waiver.

3 **6.4. Injunction from Pursuing Released Claims.** As part of the preliminary
4 approval of the Settlement, Class Members shall be enjoined from filing, initiating, or continuing to
5 prosecute any actions, claims, complaints, or proceedings in any court, or with the Division of Labor
6 Standards Enforcement (“DLSE”), or with the California LWDA, or the United States Department of
7 Labor (“DOL”), or with any other entity regarding the Released Claims.

8 This Settlement is conditioned upon the release by the Settlement Class as described herein, and
9 upon covenants by the Settlement Class that they will not prosecute any actions, lawsuits, proceedings,
10 complaints, or charges brought individually by the DLSE, LWDA, DOL, or by any other agency,
11 persons, or entity in any court or before any administrative body related to the Released Claims, nor will
12 the Settlement Class contest or interfere with efforts by Defendants to oppose any attempt to bring such
13 released claims against Defendants.

14 **6.5. Acknowledgement of Binding Terms of the Settlement, Despite Other**
15 **Potential Claims.** Class Counsel, the Class Representatives, and the Settlement Class acknowledge that
16 they may hereafter discover facts or law different from, or in addition to, the facts or law they know or
17 believe to exist with respect to the Released Claims. The Settlement Class nonetheless agrees that this
18 Agreement and the Released Claims contained in it shall be and remain effective in all respects
19 notwithstanding such different or additional facts or law regarding such Released Claims. These
20 releases do not include any claims that cannot be waived as a matter of law, but the Settlement Class
21 agrees that they will not accept any monetary recovery or benefit from any proceedings relating to any
22 such claims.

23 **6.6. No Admission of Liability.** By entering into this Agreement, Defendants in no
24 way admit any violation of law or any liability whatsoever to Class Members, individually or
25 collectively, and expressly deny all such liability. Neither this Agreement, nor any other Settlement
26 documents, shall be offered in any case or proceeding as evidence of any admission by Defendants of
27 any liability on any claim for damages, penalties, restitution, or any other relief. Likewise, by entering
28 into this Agreement, Defendants in no way admit to the suitability of this case for class action, collective

1 action, or representative action litigation, other than for purposes of Settlement. Rather, Defendants
2 enter into this Agreement to avoid further protracted litigation and to resolve and to settle all disputes
3 with the Settlement Class.

4 The Parties understand and agree that this Agreement and all exhibits thereto are settlement
5 documents and shall be inadmissible for any purpose in any proceeding, except an action or proceeding
6 to approve, interpret, or enforce the terms of this Agreement. The Parties agree that, to the extent
7 permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as
8 the basis for an injunction against any action, suit, or other proceeding that may be instituted,
9 prosecuted, or attempted in breach of this Agreement.

10 **7. SETTLEMENT APPROVAL PROCEDURE**

11 **7.1. Preliminary Approval.** Plaintiff shall promptly submit to the Court a Motion for
12 Preliminary Approval of class action settlement. This motion shall seek an order to preliminarily
13 approve the proposed Settlement according to the terms in this Agreement and provide for the Notice of
14 Class Action Settlement and the Request for Exclusion, to be sent to Class Members as specified in this
15 Agreement. This motion shall include the bases for the Gross Settlement Amount and why the amount
16 is reasonable in light of the facts and controlling authorities pertaining to the claims alleged in the
17 Complaint. The motion shall also be accompanied by signed declarations by Class Counsel, discussing
18 the risks of continued litigation and the decision that the best interests of Plaintiff and the Class
19 Members are served by the terms of this Agreement.

20 **7.2. Effect of Failure to Obtain Preliminary Approval.** If this Settlement or
21 Agreement or a substantially similar settlement mutually agreed to by the Parties is not preliminarily
22 approved, the Action shall proceed as if no settlement had been attempted and revert back to its prior
23 procedural posture. The Parties may, however, jointly agree to seek reconsideration of the ruling on the
24 Settlement or Court approval of a renegotiated settlement.

25 **7.3. Final Approval.** Plaintiff shall submit to the Court a Motion for Final Approval
26 Order. The motion shall request the entry of a Final Approval Order, which shall include findings and
27 orders: (a) approving the Settlement and the Agreement; (b) adjudging the terms to be fair, reasonable,
28 and adequate; (c) reciting the release terms in full; (d) directing that the Settlement terms and provisions

1 be carried out; and (e) retaining jurisdiction to oversee administration and enforcement of the terms of
2 this Agreement and the Court's orders.

3 **7.4. Motion for Attorneys' Fees and Costs Award.** Concurrent with the filing of the
4 Motion for Final Approval, Class Counsel shall file a motion for Court approval of an attorneys' fees
5 and costs award in the amount of (a) up to one-third (33%) of the Gross Settlement Amount (or
6 \$325,000.00) and (b) verified reasonable costs. Defendants will not oppose the motion provided it is
7 consistent with this paragraph. Defendants will not be required to support such a motion.

8 **7.5. Entry of Judgment.** At the final approval hearing, the Parties shall request that
9 the Court, among other things: (a) enter final judgment in accordance with this Agreement and without
10 further fees or costs to any party except as expressly set forth in this Agreement; (b) approve this
11 Agreement as fair, reasonable, adequate, and binding on all members of the Settlement Class; (c) enter
12 an order as to Class Counsel's request for an attorneys' fees and costs award; (d) enter an order as to the
13 request for the Class Representative Service Awards; and, (e) enter an order permanently enjoining all
14 members of the Settlement Class from pursuing or seeking to reopen claims that have been released by
15 this Agreement.

16 **7.6. Effect of Failure to Obtain Final Judgment.** In the event the Court fails to
17 enter final judgment in accordance with this Agreement, or such final judgment is vacated or reversed,
18 the Action shall proceed as if no settlement had been attempted and revert back to its prior procedural
19 posture. The Parties may, however, jointly agree to seek reconsideration or appellate review of the ruling
20 or Court approval of a renegotiated settlement.

21 **7.7. Waiver of Appeal Rights.** By accepting this Settlement, authorizing the
22 dismissal of the Action with prejudice, and upon final approval of the settlement being granted, the
23 Class Representatives and Class Counsel hereby waive any and all rights they may have to appeal any
24 judgment, ruling, or order made by the Court in this Action, including, without limitation, any order
25 granting final approval of this Settlement or dismissing the Action with prejudice. This includes all
26 rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to
27 vacate judgment, a motion for new trial, and any extraordinary writ. The Judgment therefore will
28 become nonappealable at the time it is entered. The waiver of appeal does not include any waiver of the

1 right to oppose any appeal, appellate proceedings, or post-judgment proceedings. If an appeal is taken
2 from the Judgment, the time for consummation of the Settlement (including making payments under the
3 Settlement) will be suspended until such time as their appeal is finally resolved and the Judgment
4 becomes final.

5 **8. MISCELLANEOUS**

6 **8.1. Interim Stay of Proceedings.** The Parties agree to refrain from further litigation,
7 except such proceedings necessary to implement and to obtain a Preliminary Approval Order and Final
8 Approval Order of the terms of the Agreement. If the Settlement is not finally approved, the Parties
9 agree that they will revert to their positions in the lawsuit prior to the time the Settlement was reached,
10 and no agreements set forth in this Agreement or any documents generated or orders issued related to
11 the Settlement will be admissible in any future proceeding in this or any other action.

12 **8.2. Parties' Authority.** The signatories hereto represent that they are fully
13 authorized to enter into this Agreement and are fully authorized to bind the Parties to all terms stated
14 herein. It is agreed that Class Members are so numerous that it is impossible or impractical to have each
15 Class Member execute this Agreement. It is agreed that this Agreement may be executed on behalf of
16 Class Members by Class Representatives and Class Counsel.

17 **8.3. Entire Agreement.** This Agreement, which includes the Definitions, Recitals,
18 and all Exhibits attached hereto, constitutes the entire agreement between the Parties with regard to the
19 subject matter contained herein, and all prior and contemporaneous negotiations and understandings
20 between the Parties shall be deemed merged into this Agreement.

21 **8.4. Materiality of Terms.** The Parties have arrived at this Agreement as a result of
22 arm's-length negotiations. Where stated in this Agreement, certain terms are material and revision of
23 these material terms will allow Defendants the option to void this Agreement.

24 **8.5. Counterparts.** This Agreement may be executed in counterparts, and when each
25 party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
26 original, and when taken together with other signed counterparts, shall constitute one signed Agreement,
27 which shall be binding upon and effective as to all Parties.
28

1 8.6. **Facsimile or Scanned Signatures for This Agreement.** Any party may sign and
2 deliver this Agreement by signing on the designated signature block and transmitting that signature page
3 via facsimile or as an attachment to an e-mail to counsel for the other party. Any signature made and
4 transmitted by facsimile or as an attachment to an e-mail for the purpose of executing this Agreement
5 shall be deemed an original signature for purposes of this Agreement and shall be binding upon the party
6 who transmits the signature page.

7 8.7. **Binding Effect.** This Agreement shall be binding upon the Parties and, with
8 respect to the Class Representatives, Class Members, their spouses, children, representatives, heirs,
9 administrators, executors, beneficiaries, conservators, attorneys, and assigns.

10 8.8. **Waivers and Modifications to Be In Writing.** No waiver, modification, or
11 amendment of the terms of this Agreement, whether purportedly made before or after the Court's
12 approval of this Agreement, shall be valid or binding, unless in writing, signed by or on behalf of all
13 Parties and then only to the extent set forth in such written waiver, modification, or amendment, subject
14 to any required Court approval. Any failure by any Party to insist upon the strict performance by the
15 other Party of any of the provisions of this Agreement shall not be deemed a waiver of future
16 performance of the same provisions or of any of the other provisions of this Agreement, and such Party,
17 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of
18 any and all of the provisions of this Agreement. The time periods and dates provided in this Agreement
19 with respect to giving of notices and hearings are subject to Court approval and modification by the
20 Court or by written stipulation of Class Counsel and Defendants' Counsel.

21 Any notice to be given pursuant to this Agreement shall be made by email and overnight delivery
22 to Class Counsel or Defendants' Counsel. If Class Members have questions about this Agreement or
23 their Individual Class Payments, they must contact Class Counsel, rather than Defendants. Defendants
24 shall have no obligation to respond to communications by Class Members.

25 8.9. **Construction.** The determination of the terms and conditions of this Agreement
26 has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this
27 Agreement, and the terms and conditions of this Agreement are not intended to be, and shall not be,
28 construed against any party by virtue of draftsmanship.

1 8.9.1 **Exhibits Incorporated by Reference.** The terms of this
2 Agreement include the terms set forth in any attached exhibit, which are incorporated by this reference
3 as though fully set forth herein. Any exhibit to this Agreement is an integral part of the Settlement.

4 8.9.2 **Captions.** The captions or headings of the sections and paragraphs
5 of this Agreement have been inserted for convenience of reference only and shall have no effect upon
6 the construction or interpretation of any part of this Agreement.

7 8.9.3 **Invalidity of Any Provision.** Before declaring any provision of
8 this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent
9 possible consistent with applicable precedents so as to render all provisions of this Agreement valid and
10 enforceable.

11 8.10. **Further Acts and Cooperation Between the Parties.** The Parties shall
12 cooperate fully with each other and shall use their best efforts to obtain the Court's approval of this
13 Agreement and all of its terms. Each of the Parties, upon the request of another, agrees to perform such
14 further acts and to execute and to deliver such other documents as are reasonably necessary to carry out
15 the provisions of this Agreement.

16 8.11. **No Prior Assignments or Undisclosed Liens.** The Class Representatives and
17 Class Counsel represent and warrant that they have not assigned, transferred, conveyed, or otherwise
18 disposed of, or purported to assign, transfer, convey, or otherwise dispose of, any Released Claims or
19 the attorneys' fees and costs award to be paid pursuant to this Agreement. Class Representatives and
20 Class Counsel further represent and warrant that there are not any liens or claims against any of the
21 amounts to be paid by Defendants pursuant to this Agreement. The Class Representatives and Class
22 Counsel agree to defend, to indemnify, and to hold Defendants harmless from any liability, losses,
23 claims, damages, costs, or expenses, including reasonable attorneys' fees, resulting from a breach of
24 these representations or from any lien or assignment.

25 8.12. **Waiver of Right to Object by the Class Representatives.** The Class
26 Representatives agree to sign this Agreement, and by signing this Agreement, the Class Representatives
27 are thereby bound by the terms of this Agreement. The Class Representatives further agree that they
28 shall not object to any of the terms of this Agreement.

1 8.13. **No Solicitation of Objections.** The Parties further represent and warrant that
2 they have not and will not solicit, encourage, or assist in any fashion any effort by any entity or person
3 to object to or to seek exclusion from the Settlement set forth in this Agreement.

4 8.14. **Discovery of Confidential Documents and Information.** Class Counsel agree
5 that they will destroy all confidential documents and information provided to them by Defendants within
6 60 calendar days after the completion of the administration of the Settlement. Class Counsel further
7 agrees that none of the documents and information provided to them by Defendants shall be used for any
8 purpose other than prosecution of this Action or the defense or prosecution of a malpractice action.

9 8.15. **No Tax Advice.** Neither Class Counsel, Defendants' Counsel, or Defendants
10 intend anything contained in this Settlement or Agreement to constitute advice regarding taxes or
11 taxability, nor shall anything in this Settlement or Agreement be relied upon as such within the meaning
12 of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

13 8.16. **No Media Announcements.** Neither side shall make any public statements to the
14 news, print, electronic, or Internet media concerning the Settlement, and both sides shall decline to
15 respond to media inquiries concerning the Settlement. Class Counsel shall not publicize the settlement
16 in their marketing materials, website, or other advertising media.

17 8.17. **Continuing Jurisdiction.** The Court shall retain jurisdiction over the
18 implementation of this Agreement as well as any and all matters arising out of, or related to, the
19 implementation of this Agreement and Settlement. The Court shall not have jurisdiction to modify the
20 terms of the Agreement without the consent of all of the Parties.

21 8.18. **Disputes.** If the Parties have a dispute with regard to the language of this
22 Agreement, they agree to first attempt to resolve the dispute informally through good-faith negotiations,
23 but if those efforts are unsuccessful, they agree to mediate any such dispute. The Parties will split the
24 costs of the mediator, and all parties will bear their own fees and costs.

8.19. **Governing Law.** This Settlement and Agreement was made and entered into in the State of California. All terms of this Agreement shall be governed by and interpreted according to the substantive laws of the State of California and the procedural laws of the United States of America.

SO AGREED AND STIPULATED:

DATED: June 14, 2023

PLAINTIFF JESUS REAL SOQUI


By: Jesus Real (Jun 14, 2023 12:47 PDT)
Jesus Real Soqui

DATED: June __, 2023

CLASS MEMBER DANIEL MARTINEZ

By: _____
Daniel Martinez

DATED: June __, 2023

CLASS MEMBER ERNESTINA DUEÑAS

By: _____
Ernestina Dueñas

DATED: June __, 2023

CLASS MEMBER RAUL CASAS HERNANDEZ

By: _____
Raul Casas Hernandez

DATED: June __, 2023

CLASS MEMBER AMADO GUIZAR

By: _____
Amado Guizar

8.19. **Governing Law.** This Settlement and Agreement was made and entered into in the State of California. All terms of this Agreement shall be governed by and interpreted according to the substantive laws of the State of California and the procedural laws of the United States of America.

SO AGREED AND STIPULATED:

DATED: June __, 2023

PLAINTIFF JESUS REAL SOQUI

By: _____
Jesus Real Soqui

DATED: June 10, 2023

CLASS MEMBER DANIEL MARTINEZ

By:  _____
Daniel Martinez

DATED: June __, 2023

CLASS MEMBER ERNESTINA DUEÑAS

By: _____

Ernestina Dueñas

DATED: June __, 2023

CLASS MEMBER RAUL CASAS HERNANDEZ

By: _____

Raul Casas Hernandez

DATED: June __, 2023

CLASS MEMBER AMADO GUIZAR

By: _____

Amado Guizar

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SO AGREED AND STIPULATED:

DATED: June __, 2023

PLAINTIFF JESUS REAL SOQUI

By: _____
Jesus Real Soqui

DATED: June __, 2023

CLASS MEMBER DANIEL MARTINEZ

By: _____
Daniel Martinez

DATED: June 10, 2023

CLASS MEMBER ERNESTINA DUEÑAS

Ernestina Duenas
By: [Ernestina Duenas \(Jun 10, 2023 13:45 PDT\)](#)

Ernestina Dueñas

DATED: June __, 2023

CLASS MEMBER RAUL CASAS HERNANDEZ

By: _____

Raul Casas Hernandez

DATED: June __, 2023

CLASS MEMBER AMADO GUIZAR

By: _____

Amado Guizar

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2 the State of California. All terms of this Agreement shall be governed by and interpreted according to
3 the substantive laws of the State of California and the procedural laws of the United States of America.

4 **SO AGREED AND STIPULATED:**

5 DATED: June __, 2023

PLAINTIFF JESUS REAL SOQUI

6 By: _____
7 Jesus Real Soqui

8 DATED: June __, 2023

CLASS MEMBER DANIEL MARTINEZ

9 By: _____
10 Daniel Martinez

11 DATED: June __, 2023

CLASS MEMBER ERNESTINA DUEÑAS

12 By: _____

13 Ernestina Dueñas

14
15 DATED: June 14, 2023

CLASS MEMBER RAUL CASAS HERNANDEZ

16 RAUL C. HERNANDEZ
17 By: RAUL C. HERNANDEZ (Jun 14, 2023 15:19 PDT)

18 Raul Casas Hernandez

19
20 DATED: June __, 2023

CLASS MEMBER AMADO GUIZAR

21 By: _____

22 Amado Guizar
23
24
25
26
27
28

1 8.19. **Governing Law.** This Settlement and Agreement was made and entered into in
2 the State of California. All terms of this Agreement shall be governed by and interpreted according to
3 the substantive laws of the State of California and the procedural laws of the United States of America.

4 **SO AGREED AND STIPULATED:**

5 DATED: June __, 2023

PLAINTIFF JESUS REAL SOQUI

6 By: _____
7 Jesus Real Soqui

8 DATED: June __, 2023

CLASS MEMBER DANIEL MARTINEZ

9 By: _____
10 Daniel Martinez

11 DATED: June __, 2023

CLASS MEMBER ERNESTINA DUEÑAS

12 By: _____

13 Ernestina Dueñas

14
15 DATED: June __, 2023

CLASS MEMBER RAUL CASAS HERNANDEZ

16 By: _____

17 Raul Casas Hernandez

18
19 DATED: June 14, 2023

CLASS MEMBER AMADO GUIZAR

20 By:  _____
21 Amado R Guizar (Jun 14, 2023 13:02 PDT)

22 Amado Guizar
23
24
25
26
27
28

1 DATED: June __, 2023

DEFENDANTS BERTOLOTTI DISPOSAL, INC.,
BERTOLOTTI PATTERSON DISPOSAL, INC.,
BERTOLOTTI MODESTO DISPOSAL, INC.,

3 BERTOLOTTI NEWMAN DISPOSAL, INC.,
4 BERTOLOTTI'S CERES DISPOSAL, INC., and
5 BERTOLOTTI TRANSFER STATION, INC. By: _____

6 Print Name: _____

7 Title: _____

8
9 DATED: June 20, 2023

MATERN LAW GROUP

10 By: 
11 Matthew J. Matern
12 Joshua D. Boxer
13 Clare E. Moran

Attorneys for Plaintiff and the Class

14 DATED: June __, 2023

HOGE, FENTON, JONES & APPEL, INC.

15 By: _____
16 Jenn M. Protas
17 Rachel A. Garcia

18 Attorneys for Defendants
19 DEFENDANTS BERTOLOTTI DISPOSAL, INC.,
20 BERTOLOTTI PATTERSON DISPOSAL, INC.,
21 BERTOLOTTI MODESTO DISPOSAL, INC.,
22 BERTOLOTTI NEWMAN DISPOSAL, INC.,
23 BERTOLOTTI'S CERES DISPOSAL, INC., AND
24 BERTOLOTTI TRANSFER STATION, INC.
25
26
27
28