

1 **LAW OFFICE OF SCOTT ERNEST WHEELER**

2 Scott Ernest Wheeler (SBN 187998)

3 Justin A. Wheeler (SBN 342226)

4 250 West First Street, Suite 216

5 Claremont, California 91711

6 Telephone: (909) 621-4988

7 Facsimile: (909) 621-4622

8 Email: sew@scottwheelerlawoffice.com

9 jaw@scottwheelerlawoffice.com

10 *Attorney for Plaintiffs and the Putative Class*

11 **ERVIN COHEN & JESSUP LLP**

12 Randall S. Leff (SBN 77148)

13 Catherine A. Veeneman (SBN 301574)

14 9401 Wilshire Boulevard, Twelfth Floor

15 Beverly Hills, California 90212-2974

16 Telephone: (310) 273-6333

17 Facsimile: (310) 859-2325

18 Email: rleff@ecjlaw.com

19 cveeneman@ecjlaw.com

20 *Attorneys for Defendants, Top Bindery, Inc. and Reed*
21 *Printing, Inc.*

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

23 **COUNTY OF SAN BERNARDINO**

24 **SAN BERNARDINO JUSTICE CENTER**

25 JOSEPH GUANTES, an individual;
26 KRISTY MONROY, an individual; and on
27 behalf of themselves, and on behalf of all
28 others similarly situated,

Plaintiffs,

v.

TOP BINDERY, INC., a California
corporation; REED PRINTING, INC., a
California corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: CIVSB2308121

[Hon. Joseph Ortiz, Dept. S-17]

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
RELEASE**

Action Filed: April 6, 2023

Trial Date: None Set

1 This Class Action and PAGA Settlement and Release ("Settlement Agreement") is entered
2 into by and between Plaintiffs Joseph Guantes ("Mr. Guantes") and Kristy Monroy ("Ms. Monroy")
3 (collectively referred to herein as "Plaintiffs"), on behalf of themselves and the Class, on the one hand,
4 and Defendants Top Bindery, Inc. ("Top Bindery") and Reed Printing, Inc. ("Reed Printing"), and the
5 Released Parties (collectively referred to herein as "Defendants"), on the other hand. Plaintiffs and
6 Defendants are collectively referred to herein as "Parties" and individually referred to herein as
7 "Party."

8 In consideration of the mutual covenants, promises, and agreements set forth herein, the Parties
9 agree that, pursuant to the terms and conditions set forth herein, which are subject to approval of the
10 Court, this Action and the Released Claims shall be settled and compromised as between Plaintiffs
11 and the Class on the one hand and Defendants on the other hand.

12 DEFINITIONS

13 1. "Action" means *Guantes et al. v. Top Bindery, Inc. et al.*, Superior Court of the State
14 of California for the County of San Bernardino, Case No. CIVSB2308121.

15 2. "Class" means: All non-exempt employees who were employed by Defendants, in the
16 State of California, at any time from September 6, 2018, through December 31, 2023.

17 3. "Class Counsel" means the Law Office of Scott Ernest Wheeler.

18 4. "Class Counsel Award" means attorneys' fees for Class Counsel's litigation and
19 resolution of this Action and Class Counsel's expenses and costs incurred in connection with this
20 Action.

21 5. "Class Information" means information regarding Class Members that Defendants will
22 in good faith compile from its records and provide to the Settlement Administrator. It shall be
23 formatted as a Microsoft Excel spreadsheet or Microsoft Word Document and shall include: each
24 Class Member's full name; social security number; last known address; last known telephone number;
25 and number of Compensable Work Weeks and Compensable PAGA Work Weeks.

26 6. "Class Member" means each person who is a member of the Class defined above and
27 who is eligible to participate in this Settlement.

1 7. “Class Period” means the time period from September 6, 2018, through December 31,
2 2023.

3 8. “Class Representative Service Awards” means the amount that the Court authorizes to
4 be paid individually to each Plaintiff in recognition of, *inter alia*, each Plaintiffs’ efforts and risks in
5 assisting with the prosecution of the Action and in return for executing a general release with
6 Defendants.

7 9. “Compensable Work Week” or “Compensable Work Weeks” means a reasonable
8 estimate of weeks worked by each Class Member as a non-exempt employee in California for
9 Defendants individually and collectively by all Class Members during the Class Period based on
10 Defendants’ records and used as a value to calculate Individual Settlement Payments. The number
11 of Compensable Work Weeks for each Class Member will be determined by adding all the calendar
12 days within the inclusive dates of employment for the employee and dividing that number by seven.
13 Any partial workweek will be expressed as a percentage of a full workweek. If it can be readily
14 determined, workweeks where someone was employed but did not record any hours can be excluded
15 from this calculation.

16 10. “Compensable PAGA Work Week” or “Compensable PAGA Work Weeks” means a
17 reasonable estimate of weeks worked by each PAGA Member, as a nonexempt employee in
18 California for Defendants, individually and collectively by all PAGA Members, during the period
19 from July 9, 2021, through December 31, 2023, based on Defendants’ records and used as a value to
20 calculate PAGA Payments. The number of Compensable PAGA Work Weeks for each PAGA
21 Member, will be determined by adding all the calendar days within the inclusive dates of
22 employment for the employee and dividing that number by seven. Any partial workweek will be
23 expressed as a percentage of a full workweek. If it can be readily determined, workweeks where
24 someone was employed but did not record any hours can be excluded from this calculation.

25 11. “Court” means the Superior Court for the County of San Bernardino, State of
26 California.

27 12. “Defendants” means Top Bindery, Inc. (“Top Bindery”) and Reed Printing, Inc.
28 (“Reed Printing”).

1 13. “Effective Date” means the date on which the Superior Court’s Final Approval Order
2 and Judgment becomes final and Defendants fully fund the settlement. The Superior Court’s Final
3 Approval Order and Judgment “becomes final” upon the latter of: (a) if there is no Objection to the
4 Settlement, or if there is an Objection but it is withdrawn, then, the date that the Final Approval Order
5 and Judgment is filed by the Court; (b) if there is an Objection to the Settlement that is not withdrawn,
6 but no appeal is commenced thereafter, then, sixty-five (65) calendar days following the date that the
7 Final Approval Order and Judgment is filed by the Court; or (c) if there is an Objection to the
8 Settlement, that is not withdrawn, and any appeal, writ, or other appellate proceeding opposing the
9 Settlement has been filed within sixty-five (65) calendar days following the date that the Final
10 Approval Order and Judgment is filed by the Court, then, when any such appeal, writ, or other
11 appellate proceeding opposing the validity of the Settlement has been resolved finally and
12 conclusively with no right to pursue further remedies or relief.

13 14. “Final Approval Order and Judgment” means an order and judgment that the Court
14 will file which finally approves this Settlement and enters a judgment in favor of Plaintiffs.

15 15. “Gross Settlement Amount” means the maximum amount which Defendants are
16 obligated to pay under this Settlement Agreement, which is Two Hundred and Ninety-Five Thousand
17 Dollars (\$295,000.00), subject to increase under the circumstances as set forth in paragraph 58. This
18 is an “all in” non-reversionary Settlement in which Defendants are required to pay the entire Gross
19 Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendants under any
20 circumstances. Payments of any appropriate and lawfully-required employer’s share of the payroll
21 taxes on the taxable portion of the settlement payments shall be paid separately from the Gross
22 Settlement Amount by Defendants at the time the Gross Settlement Amount is funded.

23 16. “Individual Settlement Payment” means the amount payable from the Net Settlement
24 Amount to each Settlement Class Member.

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

26 18. “Net Settlement Amount” means the Gross Settlement Amount, less the Class Counsel
27 Award, Class Representative Service Awards, payment to the LWDA and PAGA Members for PAGA
28 penalties, and Settlement Administration Costs.

1 19. “Notice of Class and PAGA Settlement” means the notice, substantially in the form
2 attached hereto as **Exhibit 1**, which the Settlement Administrator will mail to each Class and PAGA
3 Member, and which explains, *inter alia*, the terms of this Settlement Agreement, the settlement
4 process, and each Class Member’s estimated Individual Settlement Payment. Notice of Class
5 Settlement will be provided to the Class in English and Spanish.

6 20. “Operative Complaint” means the Class Action Complaint on file in this action.

7 21. “Objection” means a letter or other written communication submitted by a Class
8 Member to the Settlement Administrator that contains a clear statement by the Class Member that he
9 or she is objecting to any of the terms of the Settlement.

10 22. “PAGA Member” or “PAGA Members” means any Class Member who was
11 employed or has been employed by Defendants at any time during the time period of July 9, 2021,
12 through December 31, 2023.

13 23. “Parties” means Plaintiffs and Defendants, collectively, and “Party” means either
14 Plaintiffs or Defendants, individually.

15 24. “Payment Ratio” means the respective Compensable Work Weeks for each Settlement
16 Class Member divided by the total Compensable Work Weeks for all Settlement Class Members.

17 25. “PAGA Payment Ratio” means the respective Compensable PAGA Work Weeks for
18 each PAGA Member divided by the total Compensable PAGA Work Weeks for all PAGA Members.

19 26. “PAGA Period” means the time period from July 9, 2021, through December 31,
20 2023.

21 27. “Plaintiffs” refers to Joseph Guantes and Kristy Monroy.

22 28. “Preliminary Approval Date” means the date upon which the Court files an order
23 substantially in the form attached hereto as **Exhibit 2**, and which grants preliminary approval of the
24 Settlement.

25 29. “Request for Exclusion” means a letter or other written communication submitted by
26 a Class Member to the Settlement Administrator that contains a clear statement by the Class Member
27 that he or she is electing to be excluded from the Settlement.

1 30. “Released Claims by Plaintiffs” is set forth in paragraph 47 below. Plaintiffs release
2 the “Released Claims by Plaintiffs” as of the date Defendants fully fund this Settlement.

3 31. “Released Claims by Settlement Class Members” means: As of the date Defendants
4 fully funds this Settlement, Settlement Class Members shall fully and finally release and discharge
5 Released Parties, from September 6, 2018, through December 31, 2023, from any and all claims,
6 debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or
7 causes of action contingent or accrued for, that are pleaded, or that could have been pleaded, based on
8 the facts and claims alleged in the Operative Complaint, including any claims for: (a) failure to provide
9 required meal periods and pay premium payments, California Labor Code §§ 226.7, 510 and 512; (b)
10 failure to provide required rest periods and pay premium payments, California Labor Code §§ 226.7
11 and 512; (c) failure to pay overtime wages, California Labor Code §§ 510, 1194 and 1198; (d) failure
12 to pay minimum wages, California Labor Code §§ 1194 and 1197; (e) failure to timely pay wages §§
13 204 and 210; (f) failure to timely pay all wages during employment and to discharged and quitting
14 employees, California Labor Code §§ 201-204, 210; (g) failure to maintain required records; (h)
15 failure to furnish accurate, itemized wage statements, California Labor Code §§ 226 and 226.3; and
16 (i) unlawful business practices under California, Business and Professions Code §17200, et seq.;
17 predicated on any of the violations of the California Labor Code and the applicable IWC Wage Order
18 as alleged in the Operative Complaint including but not limited to, claims for restitution and other
19 equitable relief, liquidated damages, or penalties; and any other benefit, wages, penalties, or other
20 amounts claimed on account of the allegations asserted or which could have been asserted in the
21 Operative Complaint and Plaintiffs’ LWDA Notice dated June 13, 2022. This release shall apply to
22 any and all claims arising at any point during the Class Period. Upon entry of the Final Approval
23 Order and funding of the total Gross Settlement Amount, all Participating Class Members will forever
24 completely release and discharge the Released Parties from the Released Claims for the Release
25 Period. Plaintiffs and Defendants intend that the Settlement described in this Settlement Agreement
26 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
27 arbitration, demand, or other action of any kind, by each and all of the Participating Class Members
28

1 to obtain a recovery to any and all of the Released Claims. This release excludes the release of claims
2 not otherwise permitted by law, i.e. Worker's Compensation and unemployment insurance benefits.

3 32. "Released Parties" collectively mean: (i) Defendants; (ii) Defendants' respective past,
4 present and future heirs, executors, administrators, parents, subsidiaries and affiliates, successors and
5 assigns; and (iii) the past, present and future shareholders, managers, officers, partners, members,
6 agents, employees, attorneys, insurers, predecessors, successors and assigns of any of the foregoing.

7 33. "Response Deadline" means forty-five (45) days after the postmark date of the Notice
8 of Class Settlement that the Settlement Administrator shall mail to Class Members, and the last date
9 on which Class Members may: (a) submit a Request for Exclusion; or (b) submit an Objection to the
10 Settlement.

11 34. "Settled PAGA Claims", means penalties only under the Private Attorneys General
12 Act ("PAGA"), based upon the Released Claims by PAGA Members that serves the basis for
13 penalties only pursuant to Labor Code § 2699 *et seq.*, for : (a) failure to provide required meal
14 periods, California Labor Code §§ 226.7, 510 and 512; (b) failure to provide required rest periods,
15 California Labor Code §§ 226.7 and 512; (c) failure to pay overtime wages, California Labor Code
16 §§510, 1194, 1197 and 1198; (d) failure to pay minimum wages, California Labor Code §§ 1194
17 and 1197; (e) failure to timely pay all wages due during employment and to discharged and quitting
18 employees, California Labor Code §§ 201-204, 210; (f) failure to furnish accurate, itemized wage
19 statements, California Labor Code §§ 226 and 226.3; (g) failure to maintain required records,
20 California Labor Code §§ 226, 1174; (h) failure to provide California COVID-19 Supplemental Sick
21 Leave, California Labor Code §§ 248.1, 248.2 and 248.6; (i) failure to provide suitable seating, IWC
22 Wage Order No. 4-2001, § 14; (j) failure to reimburse for necessary business expenses, California
23 Labor Code § 2802; and primary rights alleged in Plaintiffs' Operative Complaint and in Plaintiffs'
24 PAGA Notice dated June 13, 2022.

25 35. "Settlement" means the disposition of the Action pursuant to this Agreement.

26 36. "Settlement Administration Costs" means the amount to be paid to the Settlement
27 Administrator from the Gross Settlement Amount for administration of this Settlement.

28 37. "Settlement Administrator" means Phoenix Settlement Administrators ("Phoenix"),

1 the Settlement Administrator shall be responsible for, *inter alia*: (a) performing Spanish translations
2 of the Notice of Class Settlement; printing and mailing the Notice of Class Settlement to the Class in
3 English and Spanish; (b) receiving and reporting the Requests for Exclusion and Objections submitted
4 by Class Members; (c) providing declaration(s) as necessary in support of preliminary and/or final
5 approval of this Settlement; (d) processing and mailing payments to Plaintiffs, Class Counsel, the
6 LWDA, and Settlement Class Members; and (e) any other tasks as the Parties mutually agree or the
7 Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the
8 Parties timely apprised of the performance of all Settlement Administrator responsibilities. The Parties
9 agree that they have no financial interest or other relationship with Phoenix that could create a conflict
10 of interest. Should a conflict of interest or other issue lead to the disqualification of the selected
11 Settlement Administrator, the Parties will meet and confer as to a suitable replacement.

12 38. “Settlement Class” or “Settlement Class Members” means all Class Members who
13 have not opted out of the Class by submitting a valid and timely Request for Exclusion.

14 **RECITALS**

15 39. Procedural History. On April 6, 2023, Plaintiffs filed a complaint against Defendants
16 in San Bernardino Superior Court, Case No. CIVSB2308121. Defendants have filed an answer to
17 Plaintiffs’ complaint.

18 40. Investigation and Discovery. The Parties have conducted significant investigation of
19 the facts and law during the prosecution of this Action and before this Settlement was reached. Such
20 discovery and investigation included, *inter alia*, the exchange of information and extensive documents
21 pertaining to Plaintiffs and the Class, and numerous meetings and informal conferences wherein the
22 Parties exchanged information, class data, and theories of the case. Plaintiffs have also investigated
23 the law as applied to the facts of Plaintiffs’ claims and Defendants’ potential defenses thereto.

24 41. Mediation. The Parties initially participated in a mediation session with the highly
25 experienced mediator, Steve Pearl, Esq., on March 16, 2023. After a full day of mediation, the Parties
26 were unable to resolve the matter. The Parties then agreed to attend a second mediation session, this
27 time with the Honorable Richard Stone, Judge Ret., on December 2, 2023. After a full day of
28 mediation, the Parties accepted the Mediator’s Proposal and were able to reach a proposed settlement

1 regarding the material terms for a proposed class action and PAGA settlement that would fully resolve
2 this matter.

3 42. Benefits of Settlement to Class Members. Plaintiffs and Class Counsel recognize the
4 expense and length of continued proceedings necessary to litigate Plaintiffs' claims through trial and
5 any possible appeals. Plaintiffs have also taken into account the uncertainty and risk of the outcome
6 of further litigation, and the difficulties and delays inherent in such litigation. Plaintiffs and Class
7 Counsel are also aware of the burdens of proof necessary to establish liability for the claims asserted
8 in the Action, both generally and in response to Defendants' defenses thereto, and the difficulties in
9 establishing damages for the Class. Plaintiffs and Class Counsel have also taken into account
10 Defendants' agreement to enter into a settlement that confers substantial relief upon the members of
11 the Class. Based on the foregoing, Plaintiffs and Class Counsel have determined that the Settlement
12 set forth in this Settlement Agreement is a fair, adequate, and a reasonable settlement, and is in the
13 best interests of the Class.

14 43. Defendants' Reasons for Settlement. Defendants have concluded that any further
15 defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of
16 Defendants' time, energy, and resources have been and, unless this Settlement is completed, will
17 continue to be devoted to the defense of the claims asserted by Plaintiffs. Defendants have also taken
18 into account the risks of further litigation in reaching its decision to enter into this Settlement. Even
19 though Defendants continue to contend that they are not liable for any of the claims alleged by
20 Plaintiffs in this Action, Defendants have agreed, nonetheless, to settle in the manner and upon the
21 terms set forth in this Settlement Agreement to put to rest the claims in this Action.

22 STIPULATION AND AGREEMENT

23 44. NOW THEREFORE, in consideration of the mutual covenants, promises, and
24 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

25 45. It is agreed by and among Plaintiffs and Defendants that this Settlement shall bind the
26 Plaintiffs, Settlement Class Members, and Defendants, subject to the terms and conditions hereof.

27 46. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
28 the "acknowledging party" and each Party to this Agreement other than the acknowledging party, an

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

15 47. Released Claims by Plaintiffs. As of the date Defendants fully fund the Settlement,
16 Plaintiffs agree to the Release of Claims by Settlement Class Members, which is set forth in paragraph
17 31 above. In addition to Release of Claims by Settlement Class Members and as a material
18 inducement to Defendants to enter into this Settlement Agreement, Plaintiffs do hereby, for
19 themselves and for their spouses, heirs, successors, beneficiaries, devisees, legatees, executors,
20 administrators, trustees, conservators, guardians, personal representatives, and assign, forever and
21 completely release and discharge the Released Parties from any and all charges, complaints, claims,
22 liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits,
23 rights, demands, costs, losses, debts, and expenses (including back wages, statutory penalties, civil
24 penalties, liquidated damages, exemplary damages, interest, attorneys’ fees, and costs) of any nature
25 whatsoever, from the beginning of time through the execution of this Settlement Agreement, whether
26 known or unknown, suspected or unsuspected, including but not limited to all claims arising out of,
27 based upon, or relating to Plaintiffs’ employment with or work for Defendants or the remuneration
28 for or termination of such employment.

1 Without limiting the generality of the foregoing, Plaintiffs expressly release all claims arising
2 under the California Labor Code (including, but not limited to, sections 201, 201.3, 202, 203, 204,
3 210, 216, 218.6, 221, 224, 225, 225.5, 226.7, 227.3, 510, 511, 512, 558, 1174, 1174.5, 1194, 1197,
4 1197.1, 1197.2, 1198, and 2698 et seq.); the Wage Orders of the California Industrial Welfare
5 Commission; the California Private Attorneys General Act of 2004 ("PAGA"); California Business
6 and Professions Code section 17200 et seq.; the California Civil Code, to include, but not limited to,
7 section 3336 and 3294; the California common law of contract; the Fair Labor Standards Act, 29
8 U.S.C. § 201 et seq.; federal common law; and the Employee Retirement Income Security Act, 29
9 U.S.C. § 1001, et seq. Plaintiffs' Released Claims also include all claims for lost wages and benefits,
10 emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal,
11 state, or local laws for discrimination, harassment, and wrongful termination such as by way of
12 example only, (as amended) 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the
13 Americans with Disabilities Act, the Age Discrimination in Employment Act, and the California Fair
14 Employment and Housing Act; and the law of contract and tort. This release excludes the release of
15 claims not permitted by law. As to the Plaintiffs' Released Claims only, Plaintiffs expressly waive
16 all rights and benefits under the terms of section 1542 of the California Civil Code. Section 1542
17 reads as follows:

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

21 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and
22 complete release and discharge of all parties, Plaintiffs and Class Counsel expressly acknowledge that
23 this Settlement Agreement is intended to include in its effect, without limitation, all claims that
24 Plaintiffs knew of, as well as all claims that they do not know or suspect to exist in their favor against
25 the Released Parties, or any of them, for the time period from the beginning of time to the execution
26 of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment
27 of any such claims. Plaintiffs and Plaintiffs' Counsel do not currently intend to pursue any claims
28 against Defendants, including, but not limited to, any and all claims relating to or arising from

1 Plaintiffs' employment with Defendants, and that Plaintiffs' Counsel is not currently aware of any
2 facts or legal theories upon which any claims or causes of action could be brought against
3 Defendants, excepting those facts or legal theories alleged in the Operative Complaint in this
4 Action. This release does not include claims which cannot be released such as unemployment or
5 Worker's Compensation benefits.

6 48. Class Certification. For settlement purposes only, Defendants will stipulate that the
7 Settlement Class Members described herein who do not request exclusion from the Settlement Class
8 may be conditionally certified as a settlement class. This stipulation to certification is in no way an
9 admission that class action certification is proper and shall not be admissible in this or in any other
10 action except for the sole purposes of enforcing this Agreement. Should the Court fail to issue Final
11 Approval for any reason, the Parties' stipulation to class certification as part of the Settlement
12 Agreement shall become null and void *ab initio* and shall have no bearing on but remains protected
13 by California Evidence Code Section 1152 and shall not be admissible in connection with, the issue
14 of whether or not certification would be appropriate in a non-settlement context. Defendants expressly
15 reserve their rights and declare that Defendants will continue to oppose class certification and contest
16 the substantive merits of the case should the Court fail to issue Final Approval. Plaintiffs expressly
17 reserve their rights and declare that they will continue to pursue class certification and a trial should
18 the Court fail to grant Final Approval.

19 49. Approval of Settlement. Plaintiffs will move the Court to grant preliminary and final
20 approval of this class action Settlement. The Parties agree to work diligently and cooperatively to
21 have this matter presented to the Court for preliminary and final approval.

22 50. Release of Claims by Settlement Class Members. Settlement Class Members release
23 the "Released Claims by Settlement Class Members," as defined, as of the date Defendants fully funds
24 the Settlement.

25 51. Release of Settled PAGA Claims. PAGA Members release the "Settled PAGA
26 Claims," as defined, as of the date Defendants fully funds the Settlement.

27 51. Settlement Administration. Within ten (10) calendar days after the Preliminary
28 Approval Date, Defendants shall provide the Settlement Administrator with the Class Information.

1 53. Notice to the Class. Upon receipt of the Class Information, the Settlement
2 Administrator will perform a search based on the National Change of Address Database to update and
3 correct any known or identifiable address changes. Within ten (10) calendar days after receiving the
4 Class Information, the Settlement Administrator shall mail copies of the Notice of Class Settlement
5 to all Class Members via regular First Class U.S. Mail. The Settlement Administrator shall exercise
6 its best judgment to determine the current mailing address for each Class Member. The address
7 identified by the Settlement Administrator as the current mailing address shall be presumed to be the
8 best mailing address for each Class Member.

9 a. Undeliverable Notices. Any Notice of Class Settlement returned to the
10 Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to
11 the forwarding address affixed thereto within ten (10) calendar days. For any undeliverable Notice of
12 Class Settlement returned for which no forwarding address is affixed, the Settlement Administrator
13 will conduct its investigation for an updated address of the Class Member and re-mail the Notice of
14 Class Action Settlement. If an updated address is found, the Settlement Administrator shall have
15 seven (7) days to re-mail the Notice of Class Action Settlement from receipt of the undelivered
16 envelope. The Settlement Administrator will provide a cover letter notifying the Class Member of the
17 extended Response Deadline. Any Class Member who receives a re-mailed Notice of Class Settlement
18 shall have forty-five (45) days after the postmark date of the re-mailed Notice of Class Settlement to:
19 (a) submit a Request for Exclusion; or (b) submit an Objection to the Settlement.

20 (1) Verification of Class Member Employment Status. If Notice of Class
21 Action Settlement sent to a Class Member is determined to be
22 undeliverable, the Settlement Administrator shall verify the
23 employment status of the Class Member with Defendants within five
24 (5) days of receipt of the undeliverable Notice of Class Action
25 Settlement. If the Class Member is a current employee of Defendants,
26 Defendants shall take all reasonable efforts to obtain the current
27 address from the Class Member and shall provide the same with seven
28 (7) days of notice from the Settlement Administrator.

1 b. Disputes Regarding Individual Settlement Payments. Class Members will have
2 the opportunity, should they disagree with Defendants' records regarding the dates of employment
3 stated in the Notice of Class Settlement, to provide documentation and/or an explanation to show
4 contrary information by the Response Deadline. The dispute form must: (a) contain the full name,
5 address, and telephone number of the Class Member, and the last four digits of the Class Member's
6 social security number or full employee ID number; (b) contain the case name and case number; (c) a
7 clear statement by the Class Member that he or she is disputing the number of Compensable
8 Workweeks and the basis for the dispute; (d) any documentation demonstrating that the number of
9 Compensable Workweeks listed in the Notice of Class Settlement is incorrect; (e) be signed by the
10 Class Member; and (f) be postmarked by the Response Deadline. The date of the postmark on the
11 return mailing envelope on the dispute form shall be the exclusive means used to determine whether
12 it has been timely submitted. If there is a dispute, the Settlement Administrator will consult with the
13 Parties to determine whether an adjustment is warranted. In addition to U.S. Mail, a Class Member
14 may also submit a dispute form by facsimile or email to the Settlement Administrator within the
15 Response Deadline. The Settlement Administrator shall then determine the eligibility for, and the
16 amounts of, any Individual Settlement Payments under the terms of this Agreement. In the absence of
17 circumstances indicating fraud, manipulation or destruction, Defendants' records shall be given a
18 rebuttable presumption of accuracy.

19 c. Request for Exclusion. Class Members who wish to exclude themselves from
20 the Settlement must submit to the Settlement Administrator a Request for Exclusion by the Response
21 Deadline. The Request for Exclusion must: (a) contain the full name, address, and telephone number
22 of the Class Member, and the last four digits of the Class Member's social security number or full
23 employee ID number; (b) contain the case name and case number; (c) a clear statement by the Class
24 Member that he or she is electing to be excluded from the Settlement; (d) be signed by the Class
25 Member; and (e) be postmarked by the Response Deadline if submitted by U.S. Mail. The date of the
26 postmark on the return mailing envelope on the Request for Exclusion submitted by U.S. Mail shall
27 be the exclusive means used to determine whether it has been timely submitted. In addition to U.S.
28 Mail, a Class Member may also submit a Request for Exclusion by facsimile or email to the Settlement

1 Administrator within the Response Deadline. A Request for Exclusion shall not be presumptively
2 invalid if it does not contain the requirements of (a) through (d) if the Settlement Administrator can
3 ascertain the identity of the Class Member who wants to exclude themselves from the Settlement. Any
4 Class Member who requests to be excluded from the Settlement Class shall not be entitled to any
5 recovery under the Settlement and shall not be bound by the terms of the Settlement or have any right
6 to object, appeal or comment thereon except as to any distribution based upon PAGA penalties.
7 PAGA Members will receive their share of the PAGA Payment and the Settled PAGA Claims will be
8 released even if the Class Member submits a timely Request for Exclusion. Class Members who fail
9 to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound
10 by all terms of the Settlement and any Final Approval Order and Judgment entered in this Action.

11 d. Objections. Class Members who wish to object to the Settlement can either
12 mail or send by facsimile or email to the Settlement Administrator a written Objection by the
13 Response Deadline. The Objection should: (a) contain the full name, address, and telephone number
14 of the Class Member, and the last four digits of the Class Member's social security number; (b)
15 contain the case name and case number; (c) the dates of employment of the Class Member; (d) be
16 signed by the Class Member; (e) state the basis for the Objection, including any legal briefs, papers
17 or memoranda in support of the Objection; and (f) be postmarked by the Response Deadline. The
18 date of the postmark on the return mailing envelope on the Objection shall be the exclusive means
19 used to determine whether the Objection has been timely submitted. Class Members who submit a
20 timely Objection will have a right to appear at the final approval hearing in order to have their
21 Objection heard by the Court. At no time shall any of the Parties or their counsel seek to solicit or
22 otherwise encourage Class Members to submit Objections to the Settlement or appeal from the Final
23 Approval Order and Judgment. Class Counsel shall not represent any Class Members with respect to
24 any such Objections. The Settlement Administrator will provide the Parties with any Objection
25 within five (5) calendar days of receipt of the Objection. Plaintiffs will file any and all Objections
26 with the Court in advance of the Final Approval Hearing. Oral or written Objections may also be
27 made at the Final Approval hearing without a written objection being submitted, but only with the
28

1 Court's express permission. If the Court rejects the objection, the individual will be bound by the
2 terms of the Settlement.

3 e. If greater than fifteen (15) percent of the Class Members opt out or object to
4 this Settlement Agreement or a number of Class Members whose share of the Net Settlement Amount
5 is 15% or more, Defendants will have the right to rescind and terminate the Settlement without
6 prejudice to its pre-settlement positions and defenses in the litigation. In such a case, the Parties and
7 any funds to be awarded shall be returned to their respective statuses as of the date and time
8 immediately prior to the execution of this Agreement.

9 f. Except for those Settlement Class Members who exclude themselves in
10 compliance with the Request for Exclusion procedures set forth above, all Settlement Class Members
11 will: (i) be deemed to be Participating Class Members for all purposes under this Settlement
12 Agreement; (ii) will be bound by the terms and conditions of this Settlement Agreement, the
13 Judgment, and the releases set forth herein; and (iii) except as otherwise provided herein, will be
14 deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy
15 of the Settlement.

16 54. Funding Gross Settlement Amount. After Final Approval by the Court, Defendants
17 will fund the Gross Settlement Amount by making two (2) installment payments to the
18 Settlement Administrator. The first installment payment of One-Hundred and Forty-Five
19 Thousand Dollars and Zero Cents (\$145,000) is due within thirty (30) days from the date the
20 Court enters Judgment granting final approval, by wire transfer to the Settlement
21 Administrator which will be deposited into an interest-bearing account. The second
22 installment payment of One-Hundred and Fifty Thousand Dollars and Zero Cents (\$150,000),
23 plus Defendants "employers share" of the payroll taxes, is due within eighteen (18) months
24 from the date the Court enters Judgment granting final approval, by wire transfer to the
25 Settlement Administrator. All interest earned shall be payable to the Class. Within thirty (30)
26 calendar days of the Final Payment Date, the Settlement Administrator will pay all claims,
27 and Court approved attorneys' fees and costs, the LWDA payment for PAGA, and the service
28 awards.

1 55. Allocation of Settlement. Individual Settlement Payments will be paid from the Net
2 Settlement Amount and shall be paid pursuant to the settlement formula set forth herein. Individual
3 Settlement Payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members'
4 last known mailing address.

5 a. The Settlement Administrator shall calculate the total Compensable Work
6 Weeks and Compensable PAGA Work Weeks for all Settlement Class Members based on the Class
7 Information provided by Defendants. The respective Compensable Work Weeks for each Settlement
8 Class Member will be divided by the total Compensable Work Weeks for all Settlement Class
9 Members, resulting in the Payment Ratio for each Settlement Class Member; a similar calculation will
10 apply to determining the Payment Ratio for Compensable PAGA Work Weeks. Each Settlement Class
11 Member's Payment Ratio will then be multiplied by the Net Settlement Amount to determine his or
12 her Individual Settlement Payment.

13 b. Individual Settlement Payments due to each Settlement Class Member shall be
14 designated as follows:

15 1. Twenty percent (20%) of the Individual Settlement Payment shall
16 represent payment for alleged unpaid wages. This payment shall be subject to the withholding of all
17 applicable local, state, and federal taxes. Applicable payroll taxes and/or contributions will be
18 deducted from the amount paid to Settlement Class Members. The Settlement Administrator will
19 issue a W-2 Form to each Settlement Class Member in relation to this payment.

20 2. Seventy percent (70%) of the Individual Settlement Payment shall
21 represent payment of all penalties. These payments will not be subject to withholding of local, state,
22 and federal taxes. The Settlement Administrator will issue an IRS Form 1099 to each Settlement
23 Class Member in relation to these payments.

24 3. Ten percent (10%) of the Individual Settlement Payment shall represent
25 payment of all interest. These payments will not be subject to withholding of local, state, and federal
26 taxes. The Settlement Administrator will issue an IRS Form 1099 to each Settlement Class Member
27 in relation to these payments.

1 (a). Class Members With Missing/Unverifiable Social Security
2 Numbers and Withholdings of Taxes and Applicable Penalties. In the event that an Individual
3 Settlement Payment exceeds the threshold amount that must be reported to the Internal Revenue
4 Service by means of a Form 1099, Class Counsel, and the Settlement Administrator, will take all
5 necessary and reasonable steps to obtain W-9's from Class Members and to comply with applicable
6 IRS regulations on issuing 1099's without a social security number or tax entity identification number,
7 and shall take all reasonable and necessary steps to avoid imposition of IRS penalties against the Gross
8 Settlement Amount, including, but not limited to limiting payments below the reportable threshold
9 and/or withholding of taxes and any applicable penalties. The Settlement Administrator will contact
10 Class Members who are entitled to payments that exceed the taxable income threshold twice, with at
11 least 30 days between the two contacts.

12 c. Uncashed Settlement Checks. Individual Settlement Payment checks shall
13 remain negotiable for one hundred and eighty (180) days from the postmark date of issuance. If the
14 Settlement Check is not cashed, deposited, or otherwise negotiated within the 180-day deadline, the
15 check will be voided, and the funds associated with any such voided checks shall be distributed to the
16 State of California Controller's Office, Unclaimed Property Division, in the name of the affected Class
17 Member. The Release will be binding upon all Participating Class Members, including those who do
18 not cash their checks within the 180-day period. The Parties agree that this disposition results in no
19 "unpaid cash residue," or "unclaimed or abandoned funds" as the entire Net Settlement Amount will
20 be paid out to the Participating Class Members, whether or not they all cash their payment checks.

21 d. Certification By Settlement Administrator. The Parties have the right to
22 monitor and review administration of the Settlement. Any disputes not resolved by the Settlement
23 Administrator concerning the administration of the Settlement will be resolved by the Court, under
24 the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties
25 will confer in good faith to resolve the disputes without the necessity of involving the Court. Upon
26 completion of administration of the Settlement, the Settlement Administrator shall provide written
27 certification of such completion to counsel for the Parties, and which shall be filed with the Court as
28 necessary.

1 e. Settlement Awards Do Not Trigger Additional Benefits. All monies received
2 by Settlement Class Members shall be deemed to be income to such Settlement Class Members solely
3 in the year in which such awards actually are received by the Settlement Class Members. It is expressly
4 understood and agreed that the receipt of such Individual Settlement Payments will not entitle any
5 Settlement Class Member to additional compensation or benefits under any company compensation
6 or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle
7 any Settlement Class Member to any increased pension and/or retirement, or other deferred
8 compensation benefits. It is the intent of this Settlement that any Individual Settlement Payments
9 provided for in this Agreement are the sole payments to be made by Defendants to the Settlement
10 Class Members in connection with this Settlement, and that the Settlement Class Members are not
11 entitled to any new or additional compensation or benefits as a result of having received the Individual
12 Settlement Payments (notwithstanding any contrary language or agreement in any benefit or
13 compensation plan document that might have been in effect during the period covered by this
14 Settlement).

15 f. Class Representative Service Awards. Defendants agree not to oppose or
16 object to a Class Representative Service Awards to Plaintiffs of up to Ten Thousand Dollars
17 (\$10,000.00), combined between both Class Representatives, subject to Court approval. The
18 Settlement Administrator shall issue an IRS Form 1099 – MISC to Plaintiffs in connection with the
19 Class Representative Service Awards payment. Plaintiffs shall be solely and legally responsible to
20 pay any and all applicable taxes on their Class Representative Service Awards and shall hold harmless
21 Defendants and Class Counsel from any claim or liability for taxes, penalties, or interest arising as a
22 result of the Class Representative Service Awards payment. The Class Representative Service Awards
23 shall be in addition to Plaintiffs' Individual Settlement Payments. This Settlement is not contingent
24 upon the Court awarding Plaintiffs a Class Representative Service Awards in any amount, and any
25 amount requested by Plaintiffs for the Class Representative Service Awards that is not granted by the
26 Court shall return to the Net Settlement Amount and be distributed to Settlement Class Members as
27 provided in this Amended Agreement.

1 g. Class Counsel Award. Defendants agree not to oppose or object to any
2 application or motion by Class Counsel for attorneys' fees not to exceed one-third from the Gross
3 Settlement Amount, or Ninety-Nine Thousand Dollars and Zero cents (\$99,000). Defendants further
4 agree not to oppose any application or motion by Class Counsel for the reimbursement of any costs
5 or expenses associated with Class Counsel's prosecution of this matter from the Gross Settlement
6 Amount not to exceed Twenty-Two Thousand Dollars (\$22,000). Class Counsel shall be solely and
7 legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The
8 Settlement Administrator shall issue an IRS Form 1099 – MISC to Class Counsel for the payments
9 made pursuant to this paragraph. This Settlement is not contingent upon the Court awarding Class
10 Counsel any particular amount in attorneys' fees and costs. Any amount requested by Class Counsel
11 for the Class Counsel Award and costs that is not granted by the Court shall return to the Net
12 Settlement Amount and be distributed to Settlement Class Members as provided in this Agreement.

13 h. Settlement Administration Costs. The Settlement Administrator shall be paid
14 for the costs of administration of the Settlement from the Gross Settlement Amount. The costs of
15 notice and administration for the disbursement of the Gross Settlement Amount shall not exceed
16 Twelve Thousand Dollars (\$12,000.00). Prior to the filing of a motion for final approval of this
17 Settlement, the Settlement Administrator shall provide the Parties with a statement detailing the costs
18 of administration. Any amount requested by the Settlement Administrator for administration costs that
19 is not granted by the Court shall return to the Net Settlement Amount and be distributed to Settlement
20 Class members as provided in this Settlement Agreement. Defendants will pay any fees incurred by
21 the Settlement Administrator if the settlement is not approved.

22 i. PAGA Payment. Twenty Thousand dollars (\$20,000) from the Gross
23 Settlement Amount will be allocated to penalties under the Private Attorneys General Act of 2004.
24 Seventy-five percent (75%) of that amount, or \$15,000, will be paid to the LWDA and twenty-five
25 (25%) of that amount, or \$5,000, will be paid to the PAGA Members based upon Compensable PAGA
26 Work Weeks as determined by the PAGA Payment Ratio as set forth in Paragraph 25. This PAGA
27 Payment is made pursuant to California Labor Code § 2699(i).

1 56. Tax Liability: Class Counsel and Defendants make no representation as to the tax
2 treatment or legal effect of payments called for hereunder, and Plaintiffs and the Settlement Class
3 Members are not relying on any statement or representation by Class Counsel or Defendants in this
4 regard. Plaintiffs and Participating Class Members understand and agree that they will be solely
5 responsible for the payment of any taxes and penalties assessed on their respective payments described
6 herein. The amount of federal income tax withholding will be based upon a flat withholding rate for
7 supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or
8 supplemented. Income tax withholding will also be made pursuant to applicable state and/or local
9 withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in
10 the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this
11 Settlement Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax
12 law, is changed after the date of this Settlement Agreement, the processes set forth in this Section may
13 be modified in a manner to bring Defendants into compliance with any such changes.

14 57. Distribution of Settlement Payments. Individual Settlement Payments to Settlement
15 Class Members, the Class Representative Service Awards, the Class Counsel Award, Settlement
16 Administration Costs, Defendants' share of employer payroll taxes and PAGA Payment, shall all be
17 distributed by the Settlement Administrator within thirty (30) calendar days of receipt of the full Gross
18 Settlement Amount from Defendants. Prior to distribution of Individual Settlement Payments to the
19 Settlement Class Members and PAGA Members, the Settlement Administrator shall update the Class
20 and PAGA Members addresses using the National Change of Address Database.

21 58. Additional Class Members. It is currently estimated that there are 150 Class
22 Members. Defendants shall provide Plaintiff with a current list of the number of Class
23 Members at the time that Plaintiff will file a Motion for Preliminary Approval. If more than
24 158 (5%) Class Members are identified up to the date that Plaintiff files a Motion for
25 Preliminary Approval, the Gross Settlement Amount will be increased on a pro rata basis
26 according to the number of additional compensable workweeks/pay periods worked by all
27 Class Members in excess of 158 (5%) with respect to the total number of workweeks/pay
28 periods worked by the entire Class.

1 59. Final Settlement Approval Hearing and Entry of Final Judgment. Upon expiration of
2 the Response Deadline, a final approval hearing shall be conducted to determine, *inter alia*, final
3 approval of the Settlement and amounts properly payable for: (a) Individual Settlement Payments; (b)
4 the Class Counsel Awards; (c) the Class Representative Service Awards; (d) PAGA Payment; and (e)
5 the Settlement Administration Costs.

6 60. Nullification of Settlement Agreement. In the event: (a) the Court does not enter the
7 Order for preliminary approval of the Settlement; (b) the Court does not finally approve the
8 Settlement; (c) the Court does not enter a Final Approval Order and Judgment as provided herein;
9 (d) the Settlement does not become final for any other reason; or (e) the Court fails or refuses to
10 approve any material condition of this Settlement Agreement which effects a fundamental change of
11 the Settlement Agreement, this entire Settlement Agreement shall be null and void and
12 unenforceable as to all Parties herein at the option of any Party but remains protected by California
13 Evidence Code Section 1152, and any order or judgment entered by the Court in furtherance of this
14 Settlement shall be treated as void from the beginning. In such cases, the Parties and any funds to be
15 awarded under this Settlement shall be returned to their respective statuses as of the date and time
16 immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as
17 if this Agreement had not been executed, except that any fees already incurred by the Settlement
18 Administrator shall be paid by Defendants. Further, if the Settlement Agreement is voided or fails
19 for any reason, Plaintiffs and Defendants will have no further obligations under the Settlement
20 Agreement, including any obligation by Defendants to pay the Settlement Amount, or any amounts
21 that otherwise would have been owed under this Settlement Agreement. In the event an appeal is
22 filed from the Court's Final Approval Order and Judgment, or any other appellate review is sought,
23 administration of the Settlement shall be stayed pending final resolution of the appeal or other
24 appellate review, and any fees incurred by the Settlement Administrator prior to it being notified of
25 the filing of an appeal from the Court's Final Approval Order and Judgment, or any other appellate
26 review, shall be paid to the Settlement Administrator by the party or person that filed the appeal,
27 within thirty (30) calendar days of said notification.

1 61. No Effect on Employee Benefits. Amounts paid to Plaintiffs or other Settlement Class
2 Members pursuant to this Agreement shall be deemed not to be pensionable earnings and shall not
3 have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacations,
4 holiday pay, retirement plans, etc.) of Plaintiffs or Settlement Class Members.

5 62. No Admission by Defendants. Defendants deny any and all claims alleged in this
6 Action and deny all wrongdoing whatsoever. This Settlement Agreement is not a concession or
7 admission and shall not be used against Defendants as an admission or indication with respect to any
8 claim of any fault, concession, or omission by Defendants. Nonetheless, Defendants desire to settle
9 and compromise the matters at issue in the Action to avoid further substantial expense and the
10 inconvenience and distraction of protracted and burdensome litigation. Defendants also have taken
11 into account the uncertainty and risks inherent in litigation, and without conceding any infirmity in
12 the defenses that they have asserted or could assert against Plaintiffs and/or any Settlement Class
13 Member, have determined that it is desirable and beneficial that the claims of Plaintiffs and the
14 Settlement Class be settled in the manner and upon the terms and conditions set forth in this Settlement
15 Agreement.

16 63. Mutual Non-Disparagement. The Parties mutually agree that they shall not
17 publicly assert, declare, avow, lay claim to, or in any other manner represent that any of them
18 engaged in actions or conduct with the purpose of attempting to harass, embarrass, ridicule,
19 demean, demote, defame, or otherwise denigrate each other, and any of them, their good
20 name(s), personal and/or professional reputations, and/or community standing. In the event of
21 an employment inquiry regarding the Plaintiffs, Defendants shall only provide dates of
22 employment and last position held. The Parties and their counsel agree not to issue any press
23 releases, initiate contact with press, or respond to press inquiry regarding the Settlement.

24 64. No Publicity. Plaintiffs and Plaintiffs' Counsel agree not to disclose or publicize
25 the settlement, including the Memorandum of Understanding, the fact of the Settlement, its
26 terms or contents, and the negotiations underlying the Settlement, in any manner or form,
27 directly or indirectly, to any person or entity, except potential class members and as shall be
28 contractually required to effectuate the terms of the Settlement as set forth herein. For the

1 avoidance of doubt, this section means Plaintiffs and Class Counsel will not to issue press
2 releases, communicate with, or respond to any media or publication entities, publish information
3 in manner or form, whether printed or electronic, on any medium or otherwise communicate,
4 whether by print, video, recording or any other medium, with any person or entity concerning
5 the Settlement, including the fact of the Settlement, its terms or contents and the negotiations
6 underlying the Settlement, except as shall be contractually required to effectuate the terms of the
7 Settlement as set forth herein. However, for the limited purpose of allowing Class Counsel to
8 prove adequacy as class counsel in other actions, Class Counsel may disclose the name of the
9 Parties in this action and the venue/case number of this action (but not any other settlement
10 details) for such purposes.

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

16 66. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
17 except such proceedings necessary to implement and complete the Settlement, holding the Action in
18 abeyance pending the final approval hearing to be conducted by the Court.

19 67. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning the
20 interpretation, calculation or payment of Settlement claims, or other disputes regarding compliance
21 with this Agreement shall be resolved as follows:

22 a. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any Settlement Class
23 Member, or Defendants' Counsel, on behalf of Defendants, at any time believe that the other Party
24 has breached or acted contrary to the Agreement, that Party shall notify the other Party in writing of
25 the alleged violation.

26 b. Upon receiving notice of the alleged violation or dispute, the responding Party
27 shall have ten (10) calendar days to correct the alleged violation and/or respond to the initiating Party
28 with the reasons why the Party disputes all or part of the allegation.

1 c. If the response does not address the alleged violation to the initiating Party's
2 satisfaction, the Parties shall negotiate in good faith for up to ten (10) calendar days to resolve their
3 differences.

4 d. If Class Counsel and Defendants' Counsel are unable to resolve their
5 differences after twenty (20) calendar days, either Party shall first contact the mediator (Hon. Richard
6 Stone, Judge Ret.) to try to resolve the dispute. If that proves unsuccessful, the party may file an
7 appropriate motion for enforcement with the Court. The briefing of such motion should be in letter
8 brief form and shall not exceed five (5) single-spaced pages (excluding exhibits).

9 e. Reasonable attorneys' fees and costs for work done in resolving a dispute under
10 this Section may be recovered by any Party that prevails under the standards set forth within the
11 meaning of applicable law.

12 68. Notice. Unless otherwise specifically provided herein, all notices, demands or other
13 communications given hereunder shall be in writing and shall be deemed to have been duly given as
14 of the third business day after (i) emailing and (ii) mailing by United States registered or certified
15 mail, return receipt requested, addressed:

16 To the Settlement Class:

17 LAW OFFICE OF SCOTT ERNEST WHEELER
18 Scott Ernest Wheeler
19 Justin A. Wheeler
20 250 West First Street, Suite 216
21 Claremont, California 91711
22 Telephone: (909) 621-4988
23 Facsimile: (909) 621-4622
24 Email: sew@scottwheelerlawoffice.com
25 jaw@scottwheelerlawoffice.com

26 To Defendants:

27 ERVIN COHEN & JESSUP LLP
28 Randall S. Leff
29 Catherine A. Veeneman
30 9401 Wilshire Boulevard, Twelfth Floor
31 Beverly Hills, California 90212-2974
32 Telephone: (310) 273-6333
33 Facsimile: (310) 859-2325
34 Email: rleff@ecjlaw.com
35 cveeneman@ecjlaw.com

1 69. Amendment or Modification. This Agreement may be amended or modified only by
2 a written instrument signed by counsel for all Parties and approved by the Court.

3 70. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute
4 the entire Agreement among these Parties, and no oral or written representations, warranties, or
5 inducements have been made to any Party concerning this Agreement or its Exhibits other than the
6 representations, warranties, and covenants contained and memorialized in the Agreement and its
7 Exhibits.

8 71. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
9 represent they are expressly authorized by the Parties whom they represent to negotiate this
10 Agreement and to take all appropriate actions required or permitted to be taken by such Parties
11 pursuant to this Agreement to effectuate its terms, and to execute any other documents required to
12 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other
13 and use their best efforts to affect the implementation of the Settlement. In the event the Parties are
14 unable to reach agreement on the form or content of any document needed to implement the
15 Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of
16 this Settlement, the Parties may seek the assistance of the Court or the mediator to resolve such
17 disagreement. The persons signing this Agreement on behalf of Defendants represent and warrant that
18 they are authorized to sign this Agreement on behalf of Defendants. Plaintiffs represent and warrant
19 that they are authorized to sign this Agreement and that they have not assigned any claim, or part of
20 a claim, covered by this Settlement to a third-party.

21 72. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
22 to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

23 73. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they
24 have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or
25 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action
26 or rights released and discharged by this Settlement Agreement.

27 74. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
28 Order and Judgment, nothing contained herein, nor the consummation of this Settlement Agreement,

1 is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the
2 part of Defendants or any of the other Released Parties. Each of the Parties hereto has entered into
3 this Settlement Agreement with the intention of avoiding further disputes and litigation with the
4 attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and it,
5 along with all related documents such as the notices, and motions for preliminary and final approval,
6 shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be
7 inadmissible as evidence in any proceeding, except an action or proceeding to approve the Settlement,
8 and/or interpret or enforce this Settlement Agreement. The stipulation for class certification as part
9 of this Settlement Agreement is for settlement purposes only and if for any reason the Settlement is
10 not approved, the stipulation will be of no force or effect.

11 75. California Law Governs. All terms of this Settlement Agreement and the Exhibits
12 hereto shall be governed by and interpreted according to the laws of the State of California.

13 76. Counterparts. This Settlement Agreement may be executed in one or more
14 counterparts. All executed counterparts and each of them shall be deemed to be one and the same
15 instrument.

16 77. This Settlement is Fair, Adequate and Reasonable. The Parties believe this Settlement
17 is a fair, adequate, and reasonable settlement of this Action and have arrived at this Settlement after
18 extensive arms-length negotiations, taking into account all relevant factors, present and potential.

19 78. Jurisdiction of the Court. Pursuant to California Code of Civil Procedure section 664.6,
20 the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement
21 of the terms of this Settlement Agreement and all orders and judgments entered in connection
22 therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes
23 of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders
24 and judgments entered in connection therewith. All terms of this Settlement Agreement are subject to
25 approval by the Court.

26 79. Construction. The Parties hereto agree that the terms and conditions of this Settlement
27 Agreement are the result of lengthy, intensive arms'-length negotiations among the Parties and that
28 this Settlement Agreement shall not be construed in favor of or against any Party based on the extent

1 to which any Party or their counsel participated in the drafting of this Settlement Agreement. Plaintiffs
2 and Defendants expressly waive the common-law and statutory rule of construction that ambiguities
3 should be construed against the drafter of an agreement and further agree, covenant, and represent that
4 the language in all parts of this Settlement Agreement shall be in all cases construed as a whole,
5 according to its fair meaning.

6 80. Captions and Interpretations. Paragraph titles or captions contained herein are inserted
7 as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope
8 of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is
9 contractual and not merely a recital.

10 81. Binding On Assigns. This Settlement Agreement shall be binding upon and inure to
11 the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
12 successors and assigns.

13 82. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
14 because the members of the Settlement Class are numerous, it is impossible or impractical to have
15 each Settlement Class Member execute this Settlement Agreement. The Notice will advise all
16 Settlement Class Members of the binding nature of the release provided herein and such Release
17 shall have the same force and effect as if this Settlement Agreement were executed by each
18 Settlement Class Member.

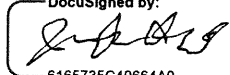
19 83. Voluntary Agreement. The Parties acknowledge that they have entered into this
20 Settlement Agreement voluntarily, on the basis of their own judgment and without coercion, duress,
21 or undue influence of any Party, and not in reliance on any promises, representations, or statements
22 made by the other Parties other than those contained in this Settlement Agreement. Each of the
23 Parties hereto expressly waives any right they might ever have to claim that this Settlement
24 Agreement was in any way induced by fraud.

25 84. Opportunity to Consult with Counsel. Prior to execution of this Settlement
26 Agreement, each Party has read this entire Settlement Agreement and has been given the
27 opportunity to consult with independent counsel of their choosing and to have such independent
28 counsel advise as to the meaning of this Settlement Agreement and its legal effect.

85. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

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

Dated: 1/5/2024

DocuSigned by:

6165735C40664A0...
By: Joseph Guantes

Dated: _____

By: _____
Kristy Monroy

Dated: _____

By: _____

Title: _____

Reed Printing, Inc.

Dated: _____

By: _____

Title: _____

Top Bindery, Inc.

85. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

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

Dated: _____

By: _____
Joseph Guantes

1/4/2024
Dated: _____

DocuSigned by:
Kristy Monroy
F3CCB714954B4E8...
By: _____
Kristy Monroy

Dated: _____

By: _____
Title: _____
Reed Printing, Inc.

Dated: _____

By: _____
Title: _____
Top Bindery, Inc.

1 85. Counterparts. This Settlement Agreement may be executed in counterparts, and when
2 each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed
3 an original, and, when taken together with other signed counterparts, shall constitute one fully-signed
4 Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic
5 signatures shall have the same force and effect as an original.

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

10

11 Dated: _____

By: _____
Joseph Guantes

12

13

14 Dated: _____

By: _____
Kristy Monroy

15

16

17 Dated: 01-05-24

By:  _____
Title: President
Reed Printing, Inc.

18

19

20

21

22 Dated: 01-05-24

By:  _____
Title: President
Top Bindery, Inc.

23

24

25

26

27

28

1 **APPROVED AS TO FORM:**

2
3 DATED: January 8, 2024

LAW OFFICE OF SCOTT ERNEST WHEELER

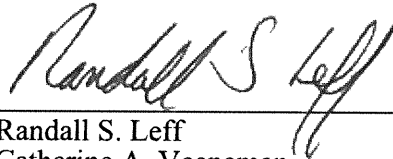
4
5 By: 
6 Scott Ernest Wheeler
7 Justin A. Wheeler

8
9 *Attorneys for Plaintiffs and the Putative Class*

10
11 DATED: January 8, 2024

ERVIN COHEN & JESSUP LLP

12 By:

13 
14 Randall S. Leff
15 Catherine A. Veeneman

16
17 *Attorneys for Defendants, Top Bindery, Inc. and Reed*
18 *Printing, Inc.*

EXHIBIT 1

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

JOSEPH GUANTES, KRISTY MONROY v. TOP BINDERY, INC., REED PRINTING, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN BERNARDINO
CASE NO. CIVSB2308121

PLEASE READ THIS NOTICE

A class and representative action under the Private Attorneys General Act, California Labor Code sections 2699-2699.5. ("PAGA") against Defendants Top Bindery, Inc. ("Top Bindery") and Reed Printing, Inc. ("Reed Printing") (collectively referred to herein as "Defendants") has been preliminarily approved for settlement. In the lawsuit, Plaintiffs, Joseph Guantes ("Mr. Guantes") and Kristy Monroy ("Ms. Monroy") (collectively referred to herein as "Plaintiffs") alleged that Defendants failed to properly compensate Class Members for all hours worked, failed to provide Class Members with compliant meal and/or rest periods or compensation in lieu thereof, failed to pay overtime wages, failed to pay minimum wages, failed to timely pay all wages, failed to pay all wages due to quitting and discharged employees at the time of separation, failed to maintain accurate payroll records, failed to provide accurate wage statements, and penalties predicated on the Labor Code violations pursuant to Labor Code sections 2699-2699.5 ("PAGA"). Defendants deny Plaintiffs' allegations and contend that they complied with applicable law.

Class Member(s) are defined as: All non-exempt employees who were employed by Defendants in the State of California, at any time from September 6, 2018, through December 31, 2023. ("Class Period" and collectively, the Class Members are referred to as the "Class").

The PAGA period is July 9, 2021, through December 31, 2023.

You have been identified by Defendants' records as a Class Member in the above-entitled action, and as such, you are subject to the terms of the Class Action and PAGA Settlement Agreement And Release ("Settlement"), preliminarily approved by the Court. Please read this notice carefully. It may affect your legal rights. Defendants will not retaliate against you for any actions you take with respect to the settlement.

YOUR LEGAL RIGHTS AND OPTIONS WITH RESPECT TO THE SETTLEMENT	
Participate in the Settlement	If you want to remain in the Class, be bound by the Settlement and receive your Individual Settlement Payment, and if eligible, PAGA Payment , then you need not do anything.
Exclude Yourself From the Settlement	If you do not want to be bound by the Settlement, you must follow the instructions in Section 6 to exclude yourself. If you exclude yourself, you will not receive your Individual Settlement Payment, and you will not release the Settled Claims against Released Parties defined in Section 4 below. If this Settlement is approved by the Court, and you are a PAGA Member, you will receive your PAGA payment and the Settled PAGA Claims will be released even if you exclude yourself from the Settlement.
Object to the Settlement	If you want to object to the Settlement, you must follow the instructions in Section 7. If you object, you will still be bound by the terms of the Settlement, if approved by the Court.

1. WHY DID I GET THIS NOTICE?

You have received this Notice because Defendants' records reflect that you are a Class Member as defined above. This Notice provides you with information about (1) the terms of the Settlement, including the claims that are being released, (2) the total monetary amount of the Settlement, (3) your estimated Individual Settlement Payment provided you remain a Settlement Class Member, and (4) where to find additional information regarding the case and the Settlement.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT: If you do nothing, then you will be automatically included in the Settlement and do not need to take any further action to receive a payment.

2. WHAT IS THIS CASE ABOUT?

The Class Action Complaint for Damages was filed on April 6, 2023, in the Superior Court of California, County of San Bernardino, commencing the lawsuit entitled *Joseph Guantes et al. v. Top Bindery, Inc., et al.*, Superior Court of the State of California for the County of San Bernardino, Case No. CIVSB2308121. Plaintiffs allege on behalf of themselves and the Class the following claims against Defendants: (1) failure to provide meal periods; (2) failure to provide rest periods; (3) failure to pay overtime wages; (4) failure to pay minimum wages; (5) failure to pay timely wages; (6) failure to pay all wages due to discharged and quitting employees; (7) failure to maintain records; (8) failure to furnish accurate, itemized wage statements; (9) unfair business competition; and (10) and violation of PAGA, predicated on the violations of the California Labor Code and applicable IWC Wage Order as alleged in the Operative Complaint.

The resolution of the PAGA claim ("PAGA Settlement") includes any Class Members who are employed or have been employed by Defendants in the State of California during the time period from July 9, 2021, through December 31, 2023 ("PAGA Members").

Defendants deny any liability or wrongdoing of any kind. Defendants contends, among other things, that they complied at all times with the California Labor Code and the Business and Professions Code, and that employees were correctly and timely paid all wages, and that meal periods and rest breaks are provided as required by applicable law.

The Court has not ruled on the merits of Plaintiffs' claims. By preliminarily approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case on the merits. Rather, the Court has determined only that there is sufficient evidence to determine on a preliminary basis that the proposed Settlement is fair, adequate, and reasonable and any final determination of those issues will be made at the final approval hearing.

3. THE SETTLEMENT TERMS AND CALCULATION OF INDIVIDUAL SETTLEMENT PAYMENTS AND PAGA PAYMENTS.

Without admitting any wrongdoing, and to avoid the business disruptions caused by litigating these claims, Defendants have agreed to pay a Gross Settlement Amount of Two Hundred, Ninety-Five Thousand Dollars (\$295,000.00) to settle the Action if approved by the Court.

The following amounts will be paid from the Maximum Settlement Amount:

- Service Payment to Plaintiffs for their service as Class Representatives in the amount of up to Ten Thousand Dollars and Zero Cents (\$10,000.00) combined;
- Attorneys' Fees not to exceed Ninety-Nine Thousand Dollars and Zero Cents (\$99,000.00) (i.e., 1/3 of the Gross Settlement Amount) to Class Counsel and up to Twenty-Two Thousand Dollars and Zero Cents (\$22,000.00) for reimbursement of litigation costs and expenses ("Attorneys' Costs");
- The amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00) allocated to the payment of civil penalties under PAGA (the "PAGA Allocation");
- The costs associated with administration of the Settlement, estimated not to exceed Twelve Thousand Dollars and Zero Cents (\$12,000.00) ("Settlement Administration Costs").

Individual Settlement Payment: The amount remaining from the Gross Settlement Amount after the above deductions is called the "Net Settlement Amount". The Net Settlement Amount will be allocated to all Class Members who do not request to be excluded from the Settlement ("Settlement Class Members") on a *pro rata* basis, based on their number of Compensable Work Weeks. Each payment is called an "Individual Settlement Payment" and will be calculated as follows:

1. The Settlement Administrator will determine the number of work weeks worked by Class Members in California as a non-exempt employee during the Class Period ("Compensable Work Weeks");
2. The Settlement Administrator will determine the value of a single Compensable Work Week by dividing the Net Settlement Amount by the total number of Compensable Work Weeks for each Settlement Class Member resulting in a payment ratio; and
3. Each Settlement Class Member shall receive a gross Individual Settlement Payment equal to his or her Compensable Work Week payment ratio multiplied by the Net Settlement Amount.

Based on your Compensable Work Weeks, your individual settlement payment as a Settlement Class Member is estimated to be \$ _____.

PAGA Payment: A total of Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Gross Settlement Amount has been allocated to PAGA Settlement. Of this amount, 75% or Seventy-Five Thousand Dollars (i.e., \$15,000.00) will be paid to California's Labor & Workforce Development Agency, and 25% or Twenty-Five Thousand Dollars (i.e., \$5,000.00) (the "Net PAGA Distribution Amount") will be paid on a *pro-rata* basis to PAGA Members.

1. The Settlement Administrator will determine the number of weeks worked by PAGA Members as non-exempt employees in California during the period from July 9, 2021, through December 31, 2023 ("Compensable PAGA Work Weeks");
2. The Settlement Administrator will determine the value of a single Compensable PAGA Work Week by dividing the Net PAGA Distribution Fund by the total number Compensable PAGA Work Weeks by all PAGA Members.
3. Each PAGA Member shall receive a PAGA Payment equal to his or her Compensable PAGA Work Weeks multiplied by the value of a single Compensable PAGA Work Week.

Based on these PAGA Compensable Work Weeks, your PAGA Payment is estimated to be \$.

If you dispute the above information, you may submit a written dispute to the number of Compensable Work Weeks and/or Compensable PAGA Work Weeks allocated to you ("Dispute") to the Settlement Administrator. Your Dispute must: (1) contain your name, address, and telephone number and the case name and number of this action, *Joseph Guantes et al. v. Top Bindery, Inc. et al.*, Superior Court of the State of California for the County of San Bernardino, Case No. CIVSB2308121; (2) be signed by you; (3) be postmarked, emailed or fax stamped on or before (INSERT DATE) and returned to the Settlement Administrator at the address, email or fax number listed below; (4) clearly state the number of Compensable Work Weeks and/or Compensable PAGA Work Weeks you believe are correct; and (5) attach any documentary evidence you have to prove the number of contented Compensable Work Weeks and/or Compensable PAGA Work Weeks.

Phoenix Settlement Administrators
Re: *Joseph Guantes et al. v. Top Bindery, Inc. et al.*
INSERT ADDRESS
Phone: (800) _____
Facsimile: (714) _____
Email: INSERT EMAIL ADDRESS

Twenty percent (20%) of each Individual Settlement Payment will be allocated to wages and subject to all applicable employee state and federal tax withholdings; Seventy percent (70%) of each Individual Settlement Payment will be considered penalties and any other non-wage related amount; and Ten percent (10%) of each Individual Settlement Payment will be considered interest. The amount allocated as wages will be reported on an IRS form W-2, and the remaining amount allocated as penalties, liquidated damages, interest and other non-wage payments will be reported on an IRS form 1099. One hundred percent (100%) of each PAGA Payment will be allocated as penalties and be reported on an IRS form 1099.

In addition to the Gross Settlement Amount, Defendants will pay all employer-payroll taxes and contributions in connection with the portion of the Settlement allocated towards wages at the time the Gross Settlement Amount is funded.

Class Members are responsible for paying taxes on any amounts received. This Notice is not tax advice and you should consult your tax advisor. Checks will be valid and negotiable for one-hundred and eighty (180) days; after that checks will become void and a stop payment will be placed on the uncashed checks. Settlement checks that are not cashed within one-hundred and eighty (180) days of mailing, or are returned to the Settlement Administrator, will be cancelled and the Settlement Administrator shall send the funds associated with uncashed checks to the State of California Controller's Office, Unclaimed Property Division, in the name of the affected Class Member. **Class Members will be bound by the Settlement even if they do not cash their settlement checks.**

4. WHAT AM I RELEASING AS A CLASS MEMBER UNDER THE SETTLEMENT?

If you do nothing, you will receive your Individual Settlement Payment.

If and when the Court grants final approval of the Settlement, as of the Effective Date, all Class Members who do not opt out of the Settlement ("Settlement Class Members") hereby do and shall fully and finally release and discharge Released Parties, from September 6, 2018, through December 31, 2023, from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action contingent or accrued for, that are pleaded, or that could have been pleaded, based on the facts and claims alleged in the Operative Complaint, including any claims for: (a) failure to provide required meal periods and pay premium payments, California Labor Code §§ 226.7, 510 and 512; (b) failure to provide required rest periods and pay premium payments, California Labor Code §§ 226.7 and 512; (c) failure to pay overtime wages, California Labor Code §§ 510, 1194 and 1198; (d) failure to pay minimum wages, California Labor Code §§ 1194 and 1197; (e) failure to timely pay wages §§ 204 and 210; (f) failure to timely pay all wages during employment and to discharged and quitting employees, California Labor Code §§ 201-204, 210; (f)

failure to furnish accurate, itemized wage statements, California Labor Code §§ 226 and 226.3; and (g) unlawful business practices under California, Business and Professions Code §17200, et seq.; predicated on any of the violations of the California Labor Code and the applicable IWC Wage Order as alleged in the Operative Complaint including but not limited to, claims for restitution and other equitable relief, liquidated damages, or penalties; and any other benefit, wages, penalties, or other amounts claimed on account of the allegations asserted or which could have been asserted in the Operative Complaint and Plaintiffs' LWDA Notice dated June 13, 2022. This release shall apply to any and all claims arising at any point during the Class Period. Upon entry of the Final Approval Order and funding of the total Gross Settlement Amount, all Participating Class Members will forever completely release and discharge the Released Parties from the Released Claims for the Release Period. Plaintiffs and Defendants intend that the Settlement described in this Settlement Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Participating Class Members to obtain a recovery to any and all of the Released Claims. This release excludes the release of claims not otherwise permitted by law, i.e. Worker's Compensation and unemployment insurance benefits.

"Released Parties" collectively mean: (i) Defendants; (ii) Defendants' respective past, present and future heirs, executors, administrators, parents, subsidiaries and affiliates, successors and assigns; and (iii) the past, present and future shareholders, managers, officers, partners, members, agents, employees, attorneys, insurers, predecessors, successors and assigns of any of the foregoing.

5. WHAT AM I RELEASING AS A PAGA MEMBER UNDER THE SETTLEMENT?

As of the Effective Date, all PAGA Members, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all of the Released Parties of and from any and all Settled PAGA Claims.

"Settled PAGA Claims" means penalties under PAGA only, and not for underlying wage and hour claims which the claims for penalties are based upon, as alleged in the Operative Complaint and the PAGA Notice filed by Plaintiffs, and as described in section 4, above.

Released Parties is defined in section 4 of this Notice above.

PAGA MEMBERS CANNOT OPT-OUT OR EXCLUDE THEMSELVES FROM THE PAGA SETTLEMENT OR RELEASE OF SETTLED PAGA CLAIMS AND WILL RECEIVE A PAGA PAYMENT EVEN IF THEY OPT-OUT OF THE CLASS SETTLEMENT.

6. WHAT IF I DON'T WANT TO PARTICIPATE IN THE CLASS SETTLEMENT?

You have the right to request exclusion from the Settlement as a Class Member and with regards to the settlement of Settled Claims, but you are not able to exclude yourself as a PAGA Member. To exclude yourself as a Settlement Class Member, you must submit a written Request for Exclusion to the Settlement Administrator ("Opt-Out Request") at the address, email or fax number listed in section 3 of this Notice above.

A valid and complete Opt-Out Request must (1) contain the name, address, and telephone number of the Class Member requesting exclusion and the case name and number of the *Guantes* Action (i.e., *Joseph Guantes et al. v. Top Bindery, Inc. et al.* Superior Court of the State of California for the County of San Bernardino, Case No. CIVSB2308121); (2) be signed by the Class Member; (3) be postmarked, emailed or fax stamped on or before [INSERT DATE] and returned to the Settlement Administrator at the specified address, email address or fax number listed in section 3 of this Notice above; and (4) contain a statement something substantially similar to:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT OF CLASS CLAIMS IN THE JOSEPH GUANTES ET AL. V. TOP BINDERY, INC. ET AL. LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT FROM THE SETTLEMENT OF THE LAWSUIT. I UNDERSTAND THAT THE PAGA CLAIM WILL STILL BE RELEASED AND SETTLED."

It is your responsibility to ensure that the Settlement Administrator timely receives your request to be excluded from the Settlement. Unless you timely request to be excluded from the Settlement, you will be bound by the judgment upon final approval of the Settlement.

Class Members who request to be excluded from the Settlement will NOT receive their Individual Settlement Payment and will not release any of the Settled Claims. However, Class Members who are also PAGA Members will receive their PAGA Payment and release the Settled PAGA Claims regardless of whether they submit an Opt-Out Request.

7. WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

Any Settlement Class Member may object to the Settlement or to any settlement term. If the Court denies approval, no payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

If you wish to object, you must submit the written objection to the Settlement Administrator ("Objection") to the following address or fax number listed in section 3 of this Notice above. A valid and timely Objection must (1) contain the name, address, and telephone number of the Settlement Class Member objecting and the case name and number of the *Guantes* Action (i.e., *Joseph Guantes et al. v. Top Bindery, Inc. et al.* Superior Court of the State of California for the County of San Bernardino, Case No. CIVSB2308121; (2) be signed by the Settlement Class Member; (3) give the legal and factual basis for their objection; and (4) be postmarked, emailed or fax stamped on or before [INSERT DATE] and returned to the Settlement Administrator at the specified address, email address or fax number in section 3 of the Notice above. Any written objection will not be presumptively invalidated if the objections do not comply with requirements (1), (2) and (3) as long as the written objection is timely received pursuant to requirement (4).

The submission of an objection will **not** exclude you from the Settlement. If the Court grants final approval of the Settlement, you will still receive an Individual Settlement Payment and will be barred from pursuing the Settled Claims. **Do not file both an Objection and Opt-Out Request.** If you file both an Objection and an Opt-Out Request, you will be excluded from the Settlement and the Objection will not be considered.

8. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Final Approval Hearing is scheduled to take place on [INSERT DATE AND TIME] in Department S-17 of the Superior Court of the State of California, San Bernardino Superior Court – Civil Justice Center, located at 247 West 3rd Street, San Bernardino, California 92415. The final approval hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing in order to receive payment under the Settlement.

9. WHO ARE THE ATTORNEYS?

Attorneys for Plaintiffs and the Class are:

LAW OFFICE OF SCOTT ERNEST
WHEELER
Scott Ernest Wheeler (SBN 187998)
Justin A. Wheeler (SBN 342226)
250 West First Street, Suite 216
Claremont, California 91711
Telephone: (909) 621-4988
Facsimile: (909) 621-4622

Attorneys for Defendants are:

ERVIN COHEN & JESSUP LLP
Randall S. Leff
Catherine A. Veeneman
9401 Wilshire Boulevard, Twelfth Floor
Beverly Hills, California 90212-2974
Telephone: (310) 273-6333
Facsimile: (310) 859-2325

The Court has decided that the Attorneys for Plaintiffs and the Class are qualified to represent the Settlement Class Members. Other than the Attorneys' Fees and Attorneys' Costs approved by the Court, which will be paid out of the Gross Settlement Amount, you will not be charged for their services.

10. SHOULD I GET MY OWN LAWYER?

You do not need to get your own lawyer. If you want your own lawyer to speak for you or appear in Court, you have the right to hire one, but you will have to pay for that lawyer yourself.

11. FURTHER INFORMATION.

This Notice summarizes the Action and the basic terms of the Settlement. For more complete information, the pleadings and other records in this litigation may be examined during regular court hours at the Superior Court of the State of California, San Bernardino Superior Court – Civil Justice Center, located at 247 West 3rd Street, San Bernardino, California 92415 or at the Court's website at: <https://www.SB-court.org>. Documents regarding this Settlement may also be found on the Internet at: <https://www.sb-court.org/divisions/civil-general-information/court-case-information-and-document-sales>.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.

EXHIBIT 2

1 **LAW OFFICE OF SCOTT ERNEST WHEELER**

2 Scott Ernest Wheeler (SBN 187998)

3 Justin A. Wheeler (SBN 342226)

4 250 West First Street, Suite 216

5 Claremont, California 91711

6 Telephone: (909) 621-4988

7 Facsimile: (909) 621-4622

8 Email: sew@scottwheelerlawoffice.com

9 jaw@scottwheelerlawoffice.com

10 *Attorney for Plaintiffs and the Putative Class*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN BERNARDINO**

13 **SAN BERNARDINO JUSTICE CENTER**

14 JOSEPH GUANTES, an individual;
15 KRISTY MONROY, an individual; and on
16 behalf of themselves, and on behalf of all
17 others similarly situated,

18 Plaintiffs,

19 v.

20 TOP BINDERY, INC., a California
21 corporation; REED PRINTING, INC., a
22 California corporation; and DOES 1
23 through 50, inclusive,

24 Defendants.

CASE NO.: CIVSB2308121

[Hon. Joseph Ortiz, Dept. S-17]

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT
AGREEMENT AND RELEASE**

Action Filed: April 6, 2023

Trial Date: None Set

1 **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL**

2 The Court now has before it, Plaintiffs' unopposed Motion for Preliminary Approval of Class
3 Action Settlement ("Motion"). After reviewing the Motion, the Class Action and PAGA Settlement
4 Agreement and Release ("Settlement Agreement") and exhibits attached thereto, and good cause
5 appearing therefore, the Court hereby finds and orders as follows:

6 1. The Court finds on a preliminary basis that the settlement memorialized in the
7 Settlement Agreement appears to be fair and adequate, and falls within the range of reasonableness,
8 and therefore meets the requirement for preliminary approval.

9 2. The Court conditionally certifies for settlement purposes the following class (the
10 "Class" or "Settlement Class"):

11 All non-exempt employees who were employed by Defendants in the State of
12 California, at any time from September 6, 2018, through December 31, 2023.

13 The Class Period is from September 6, 2018, through December 31, 2023.

14 3. The Court conditionally approves for settlement purposes the PAGA allocation of this
15 settlement to the California Labor and Workforce Development Agency ("LWDA") and PAGA
16 Members.

17 The PAGA Period is from July 9, 2021, through December 31, 2023.

18 4. The Court finds, for settlement purposes, that the Class meets the requirements for
19 certification under California Code of Civil Procedure § 382 in that: (1) the Class is so numerous that
20 joinder is impractical; (2) there are questions of law and fact that are common, or of general interest,
21 to the Class, which predominate over any individual issues; (3) Plaintiffs' claims are typical of the
22 claims of the Class; (4) Plaintiffs and Plaintiffs' counsel will fairly and adequately protect the interests
23 of the Class; and (5) a class action is superior to other available methods for the fair and efficient
24 adjudication of the controversy.

25 5. The Court appoints, for settlement purposes, Plaintiffs Joseph Guantes and Kristy
26 Monroy as Representative for the Class.

27 6. The Court appoints, for settlement purposes, the Law Office of Scott E. Wheeler as
28 Counsel for the Class.

1 7. The Parties are ordered to carry out the Settlement according to the terms of the
2 Settlement Agreement.

3 8. The Court appoints Phoenix Settlement Administrators (“Phoenix”) as the Settlement
4 Administrator and is ordered to carry out the administration of the settlement according to the terms
5 of the Settlement Agreement.

6 9. The Court approves as to form and content of the Class Action and PAGA Settlement
7 Notice. The Court finds that the dates selected for the mailing and distribution of the Notice Packet
8 meet the requirements of due process, provide the best notice practicable under the circumstances,
9 and shall constitute due and sufficient notice to all persons entitled thereto.

10 10. If any Class Member objects to the Settlement Agreement, the objecting party is not
11 required, either personally or through counsel: 1) to appear at the hearing on the motion for final
12 approval for that party’s objection to be considered; or 2) to file or serve, or to state in the objection,
13 a notice of intention to appear at the hearing on the motion for Final Approval of the Class Settlement.

14 11. Phoenix, the Settlement Administrator, shall provide notice to any objecting party of
15 any continuance of the hearing of Plaintiffs’ Motion for Final Approval.

16 12. The Parties are ordered to carry out the Settlement according to the following
17 implementation schedule:

Event	Date
Last day for Defendants to provide the Settlement Administrator with the Class Information	
Last day for Settlement Administrator, Phoenix to mail Class Notice	
Last day for Class Members to submit a dispute regarding Workweeks, Request for Exclusion, or written Objection	
Last Day for Plaintiffs to file Motion for Final Approval of the Class Settlement, Attorneys’ Fees and Costs and Class Representative Service Award	Per Code.
Final Approval Hearing	

1 13. The Court finds that the method of giving notice to the Class constitutes the best means
2 practicable of providing notice under the circumstances. The Court further finds that the Notice Packet
3 and the method of giving notice to the Class meet the requirements of California Code of Civil
4 Procedure § 382, California Rules of Court, Rules 3.766 and 3.769, and due process under the
5 California and United States Constitutions, and other applicable law.

6 14. At the Final Approval Hearing, the Court will consider whether the Settlement should
7 be finally approved as fair, reasonable and adequate, whether a final judgment should be entered, and
8 whether the payments provided for under the Settlement, including attorneys' fees and costs and class
9 representative service award, should be finally approved and granted.

10 15. Pending the Final Approval Hearing, all proceedings in this Action, other than
11 proceedings necessary to implement the Settlement and this Order, are stayed.

12 **IT IS SO ORDERED.**

13
14 DATED: _____

HONORABLE JOSEPH ORTIZ
JUDGE OF THE SUPERIOR COURT