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individually, and on behalf of all other
aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
ALAMEDA COUNTY

CARLIN CATO, individually, and on behalf of
all other aggrieved employees,

Plaintiff,

vs.

UNITY COURIER SERVICES, INC., a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NO.: 20CV020346

[Assigned for all purposes to the Hon. Frank
Roesch, Dept. 17]

**STIPULATION OF
REPRESENTATIVE ACTION
SETTLEMENT**

Complaint Filed: October 24, 2022

1 IT IS HEREBY STIPULATED, by and between plaintiff Carlin Cato (“Plaintiff”),
2 individually and on behalf of all other aggrieved employees, on the one hand, and defendant Unity
3 Courier Service, Inc. (“Defendant”), on the other hand, and subject to the approval of the Court,
4 that the Action is hereby compromised and settled pursuant to the terms and conditions set forth in
5 this Stipulation of Representative Action Settlement (“Stipulation”) and that the Court shall make
6 and enter judgment, subject to the continuing jurisdiction of the Court as set forth below, and
7 subject to the definitions, recitals, and terms set forth herein which by this reference become an
8 integral part of this Stipulation.

9 **DEFINITIONS**

- 10 1. “Action” means the representative action entitled *Cato v. Unity Courier Services,*
11 *Inc., et al.*, Alameda Superior Court Case No. 20CV020346.
- 12 2. “Aggrieved Employees” means all current and former non-exempt employees of
13 Defendant at any time during the PAGA Period.
- 14 3. “Approval Hearing” means the hearing to be conducted by the Court after the filing
15 of an appropriate motion by Plaintiff, at which time Plaintiff shall request that the Court approve
16 the Settlement, enter the Judgment, and take other appropriate action.
- 17 4. “Compensable Pay Periods” means the total number of pay periods during which an
18 Aggrieved Employee worked for Defendant as a non-exempt employee in California during the
19 PAGA Period, based on Defendant’s records, and which shall be used to calculate Individual
20 Settlement Payments.
- 21 5. “Defendant” means defendant Unity Courier Services, Inc.
- 22 6. “Defense Counsel” means Todd B. Scherwin, Shaun J. Voigt, and Ariella M. Kupetz
23 of Fisher & Phillips, LLP.
- 24 7. “Effective Date” means the latter of: (a) the date upon which the deadline for seeking
25 appellate review of the Judgment has passed without the filing of a timely appeal or a timely request
26 for review; or (b) if an appeal, review or writ is sought from the Judgment, the date upon which all
27 appellate and/or other proceedings resulting from the appeal, review or writ have been finally
28

1 terminated in such a manner as to permit the Judgment to take effect in substantially the form
2 described herein.

3 8. “Employee Information” means information regarding the Aggrieved Employees
4 that Defendant shall in good faith compile from its records and shall be authorized by the Court to
5 transmit in a secured manner to the Settlement Administrator. Employee Information shall be
6 transmitted in electronic form and shall include each Aggrieved Employee’s full name; last known
7 address; Social Security number; and total number of Compensable Pay Periods.

8 9. “Incentive Award” means the amount that the Court authorizes to be paid to
9 Plaintiff, in addition to Plaintiff’s Individual Settlement Payment, in recognition of Plaintiff’s effort
10 and risk in prosecuting the Action.

11 10. “Individual Settlement Payment” means the amount payable from the PAGA Fund
12 to each Aggrieved Employee.

13 11. “Judgment” means the final order and judgment to be entered by the Court granting
14 approval of the Settlement and this Stipulation as binding upon the Parties and the Aggrieved
15 Employees.

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

17 13. “Notice” means the Notice of Representative Action Settlement, substantially in the
18 form attached as **Exhibit 1**, which shall be subject to Court approval and which the Settlement
19 Administrator shall mail to each Aggrieved Employee explaining the terms of this Stipulation and
20 the Settlement.

21 14. “PAGA” means the Labor Code Private Attorneys General Act of 2004, California
22 Labor Code sections 2698, et seq.

23 15. “PAGA Fund” means the Settlement Fund, less Plaintiff’s Counsel Award, the
24 Incentive Award, and Settlement Administration Costs, of which seventy five percent (75%) shall
25 be distributed to the LWDA for PAGA penalties pursuant to California Labor Code § 2699(i), and
26 twenty five percent (25%) shall be distributed to the Aggrieved Employees for their Individual
27 Settlement Payments.

28 16. “PAGA Period” means the time period from August 20, 2021 to July 19, 2023.

- 1 17. “Parties” means Plaintiff and Defendant.
- 2 18. “Plaintiff” means plaintiff Carlin Cato.
- 3 19. “Plaintiff’s Counsel” means Matthew J. Matern, Deanna S. Leifer, and Kristen B.
- 4 Doyan of Matern Law Group, PC.
- 5 20. “Plaintiff’s Counsel Award” means reasonable attorneys’ fees for Plaintiff’s
- 6 Counsel’s litigation and resolution of this Action (not to exceed one-third of the Settlement Fund),
- 7 and Plaintiff’s Counsel’s expenses and costs reasonably incurred in connection with this Action.
- 8 21. “Released Parties” means Defendant and its present or former parents, owners,
- 9 subsidiaries, and any affiliated or related persons or entities and each of its officers, directors,
- 10 employees, partners, shareholders, attorneys and agents, and any other predecessors, successors,
- 11 assigns, or legal representatives.
- 12 22. “Settlement” means the final and complete disposition of the Action pursuant to this
- 13 Stipulation.
- 14 23. “Settlement Administration Costs” means the reasonable costs and fees of
- 15 administering the Settlement to be paid from the Settlement Fund, including, but not limited to: (i)
- 16 printing, mailing, and re-mailing (if necessary) Settlement Packets to the Aggrieved Employees;
- 17 (ii) preparing and submitting to Aggrieved Employees and government entities all appropriate tax
- 18 filings and forms; (iii) computing the amount of and distributing Individual Settlement Payments,
- 19 the Incentive Award, the Plaintiff’s Counsel Award, and the PAGA payment to the LWDA; (iv)
- 20 establishing a Qualified Settlement Fund, as defined by the Internal Revenue Code; and (vi)
- 21 preparing and submitting filings required by law in connection with the payments required by the
- 22 Settlement.
- 23 24. “Settlement Administrator” means CPT Group, Inc.
- 24 25. “Settlement Fund” means the maximum amount Defendant shall have to pay in
- 25 connection with this Settlement, which shall be inclusive of all Individual Settlement Payments to
- 26 the Aggrieved Employees, the Plaintiff’s Counsel Award, the Incentive Award, Settlement
- 27 Administration Costs, and the PAGA payment to the LWDA. Subject to Court approval and the
- 28

1 terms of this Stipulation, the Settlement Fund Defendant shall be required to pay is Five Hundred
2 Fifty Six Thousand Dollars (\$556,000.00).

3 26. "Settlement Packet" means the packet of documents which shall be mailed to all
4 Aggrieved Employees by the Settlement Administrator, including the Notice and each Aggrieved
5 Employee's respective Individual Settlement Payment.

6 **RECITALS**

7 27. Procedural History. On October 24, 2022, Plaintiff filed a complaint against
8 Defendant in Alameda County Superior Court, alleging a single cause of action for penalties under
9 PAGA.

10 28. Defendant filed its answers to Plaintiff's complaint on February 9, 2023.

11 29. On July 19, 2023, the Parties attended a private mediation session with mediator
12 Lisa Klerman, Esq. At the end of the mediation, Ms. Klerman made a mediator's proposal outlining
13 the material terms of a proposed representative action settlement. The Parties accepted the
14 mediator's proposal, made subject to the Parties entering into a long form settlement agreement.

15 30. Benefits of Settlement to Plaintiff and the Aggrieved Employees. Plaintiff and
16 Plaintiff's Counsel recognize the expense and length of continued proceedings that would be
17 necessary to litigate Plaintiff's claims in the Action through trial and through any possible appeals.
18 Plaintiff also has taken into account the uncertainty and risks of the outcome of further litigation,
19 and the difficulties and delays inherent in such litigation. Plaintiff and Plaintiff's Counsel are also
20 aware of the burdens of proof necessary to establish liability for the claims asserted in the Action,
21 both generally and in response to Defendant's defenses thereto, and the difficulties in establishing
22 penalties and other relief sought in the Action. Plaintiff and Plaintiff's Counsel also have taken
23 into account Defendant's agreement to enter into a settlement that penalizes Defendant for its
24 alleged wrongdoing and confers substantial benefits upon the State of California and Aggrieved
25 Employees. Based on the foregoing, Plaintiff and Plaintiff's Counsel have determined that the
26 Settlement set forth in this Stipulation is fair, adequate, and reasonable and is in the best interests
27 of all Aggrieved Employees.
28

31. Defendant's Reasons for Settlement. Defendant has concluded that any further defense of the Action would be protracted and expensive for all Parties. Substantial amounts of Defendant's time, energy, and resources have been, and unless this Settlement is completed, shall continue to be, devoted to the defense of the claims asserted by Plaintiff. Defendant has also taken into account the risks of further litigation in reaching its decision to enter into this Settlement. Even though Defendant contends it is not liable for any of the claims alleged by Plaintiff in the Action, Defendant has agreed, nonetheless, to settle in the manner and upon the terms set forth in this Stipulation and to put to rest the claims alleged in this Action. Defendant has asserted and continues to assert that the claims alleged by Plaintiff have no merit and do not give rise to any liability, damages, restitution, penalties, or other payments. This Stipulation is a compromise of disputed claims. Nothing contained in this Stipulation, no documents referred to herein, and no action taken to carry out this Stipulation, shall be construed or used as an admission by or against Defendant as to the merits or lack thereof of the claims asserted in the Action. Defendant contends that it has complied with all applicable state, federal and local laws.

TERMS OF SETTLEMENT

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

32. Binding Settlement. This Settlement shall bind the Parties and all Aggrieved Employees, subject to the terms and conditions hereof and the Court's approval.

33. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments specified herein, and the Aggrieved Employees are not relying on any statement or representation by the Parties, Plaintiff's Counsel or Defense Counsel in this regard. The Aggrieved Employees and Plaintiff's Counsel understand and agree that they shall be responsible for the payment of all taxes and penalties assessed on the payments specified herein, and shall hold the Parties, Plaintiff's Counsel, and Defense Counsel free and harmless from and against any claims resulting from treatment of such payments as non-taxable, including the treatment of such payments as not subject to withholding or deduction for payroll and employment taxes.

1 34. Circular 230 Disclaimer. THE PARTIES ACKNOWLEDGE AND AGREE THAT
2 (1) NO PROVISION OF THIS STIPULATION, AND NO WRITTEN COMMUNICATION OR
3 DISCLOSURE BETWEEN OR AMONG THE PARTIES, CLASS COUNSEL, OR DEFENSE
4 COUNSEL AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY
5 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
6 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
7 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
8 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS
9 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
10 ADVICE) IN CONNECTION WITH THIS STIPULATION, (B) HAS NOT ENTERED INTO
11 THIS STIPULATION BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY
12 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED
13 TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR
14 ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
15 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER
16 TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE
17 CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES
18 (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
19 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
20 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
21 CONTEMPLATED BY THIS STIPULATION.

22 35. Approval of Settlement. Plaintiff shall be responsible for moving the Court to
23 approve the Settlement and enter the Judgment. The Parties agree to work diligently and
24 cooperatively to have this Settlement presented to the Court for approval. The Judgment shall
25 provide for, among other things, the Settlement Packet to be sent to Aggrieved Employees as
26 specified herein.

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1 36. Release by Plaintiff and Other Aggrieved Employees:

2 a. Aggrieved Employees' Released Claims. Upon Defendant providing the
3 Settlement Fund to the Settlement Administrator, all Aggrieved Employees shall be deemed to have
4 released the Released Parties of any and all claims and/or causes of action under PAGA which are
5 based upon the factual allegations set forth in the operative complaint and/or Plaintiff's PAGA
6 notice to the LWDA and arising at any time during the PAGA Period. The scope of the Aggrieved
7 Employees' Released Claims is intended to encompass any and all claims for statutory penalties
8 that could have been sought by the Labor Commissioner for the alleged violations identified in
9 Plaintiff's operative complaint and/or pre-filing notice to the LWDA.

10 b. Plaintiff's Released Claims. Upon Defendant providing the Settlement Fund
11 to the Settlement Administrator, Plaintiff shall be deemed to have released the Released Parties
12 from any and all claims, demands, rights, liabilities, and/or causes, of any form whatsoever, arising
13 under federal, state, local, or common laws, rules, or regulations, whether known or unknown,
14 unforeseen, unanticipated, unsuspected or latent, that have been or could have been asserted by
15 Plaintiff, or Plaintiff's heirs, successors and/or assigns, whether directly, indirectly,
16 representatively, derivatively or in any other capacity, against Defendant or any of the other
17 Released Parties, arising at any time prior to entry of the Judgment, including but not limited to
18 those claims raised in the Action, and those arising from or related to Plaintiff's employment with
19 or work for Defendant. This release excludes only the release of claims not permitted by law.

20 As to the Released Claims only, Plaintiff expressly waives all rights and benefits under the
21 terms of section 1542 of the California Civil Code. Section 1542 reads as follows:

22 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
23 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
24 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
25 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
26 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**
27 **DEBTOR OR RELEASED PARTY.**
28

1 Notwithstanding the provisions of section 1542, and for the purpose of implementing a full
2 and complete release and discharge of all of her Released Claims, Plaintiff expressly acknowledges
3 that this Settlement is intended to include in its effect, without limitation, all Released Claims which
4 Plaintiff does not know or suspect to exist in his favor at the time of execution hereof, and that the
5 Settlement contemplates the extinguishment of all such Released Claims.

6 37. Settlement Administration.

7 a. Within ten (10) days of the Effective Date, Defendant shall provide the
8 Settlement Administrator with the Employee Information for purposes of mailing the Settlement
9 Packets to Aggrieved Employees.

10 i. Notice by First Class U.S. Mail. Upon receipt of the Employee
11 Information, the Settlement Administrator shall perform a search based on the National Change of
12 Address Database maintained by the United States Postal Service to update and correct any known
13 or identifiable address changes. Within ten (10) days of receiving the Settlement Fund from
14 Defendant as provided herein, the Settlement Administrator shall mail copies of the Settlement
15 Packet, which shall include the Notice and each Aggrieved Employee's respective Individual
16 Settlement Payment, to all Aggrieved Employees via regular First Class U.S. Mail. The Settlement
17 Administrator shall exercise its best judgment to determine the current mailing address for each
18 Aggrieved Employee. The address identified by the Settlement Administrator as the current
19 mailing address shall be presumed to be the most current mailing address for each Aggrieved
20 Employee. The Parties agree that this procedure for notice provides the best notice practicable to
21 Aggrieved Employees and fully complies with due process.

22 ii. Undeliverable Settlement Packets. Any Settlement Packet returned
23 to the Settlement Administrator as non-deliverable shall be re-mailed to the forwarding address
24 affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly
25 attempt to determine a correct address by the use of skip-tracing, or other type of automated search,
26 using the name, address, and/or Social Security number of the Aggrieved Employee involved, and
27 shall then perform a re-mailing to the Aggrieved Employee whose Settlement Packet was returned
28 as non-deliverable, assuming another mailing address is identified by the Settlement Administrator.

1 If these procedures are followed, notice to Aggrieved Employees shall be deemed to have been
2 fully satisfied, and if the intended recipient of the Settlement Packet does not receive the Settlement
3 Packet, the intended recipient shall nevertheless remain bound by all terms of the Settlement and
4 the Judgment.

5 iii. Determination of Individual Settlement Payments. The Settlement
6 Administrator shall determine the eligibility for, and the amount of, each Individual Settlement
7 Payment under the terms of this Stipulation. The Settlement Administrator's determination of the
8 eligibility for and amount of each Individual Settlement Payment shall be binding upon the
9 Aggrieved Employees and the Parties, yet subject to review by Plaintiff's Counsel, Defense
10 Counsel, and the Court. In the absence of fraud or gross negligence, Defendant's records shall be
11 presumed accurate.

12 iv. Disputes Regarding Administration of Settlement. Any dispute not
13 resolved by the Settlement Administrator concerning the administration of the Settlement shall be
14 resolved by the Court. Prior to any such involvement of the Court, counsel for the Parties shall
15 confer in good faith and make use of the services of Lisa Klerman, if necessary, to resolve the
16 dispute without the necessity of involving the Court.

17 b. Monitoring and Reviewing Settlement Administration. The Parties have the
18 right to monitor and review the administration of the Settlement to verify that the monies allocated
19 under the Settlement are distributed in the correct amount, as provided for in this Stipulation.

20 c. Best Efforts. The Parties agree to use their best efforts to carry out the terms
21 of this Settlement.

22 38. Funding and Allocation of the Settlement Fund. No later than five (5) days after the
23 Effective Date, Defendant shall provide to the Settlement Administrator in any feasible manner,
24 including, but not limited to, by way of a wire transfer, the Settlement Fund. If this Settlement is
25 not finally approved by the Court in full, or is terminated, rescinded, canceled, or fails to become
26 effective for any reason, or if the Effective Date does not occur, then no portion of the Settlement
27 Fund shall be paid.

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1 a. Individual Settlement Payments. The Aggrieved Employees shall not be
2 required to submit a claim in order to receive a share of the PAGA Fund, and no portion of the
3 Settlement Fund shall revert to Defendant or result in an unpaid residue. Individual Settlement
4 Payments shall be paid by the Settlement Administrator from the PAGA Fund pursuant to the
5 formula set forth herein.

6 i. Each Aggrieved Employee's Individual Settlement Payment shall be
7 calculated solely by the Settlement Administrator according to the following formula: Defendant
8 shall provide the Settlement Administrator with the Compensable Pay Periods for each Aggrieved
9 Employee. The Settlement Administrator shall then divide the Aggrieved Employees' portion of
10 the PAGA Fund by the total number of Compensable Pay Periods for all Aggrieved Employees
11 resulting in a value for each week worked by the Aggrieved Employees during the PAGA Period
12 ("Pay Period Value"). The Settlement Administrator shall then multiply the number of
13 Compensable Pay Periods for each Aggrieved Employee by the Pay Period Value.

14 ii. Individual Settlement Payments shall be made by check and shall be
15 made payable to each Aggrieved Employee as set forth in this Stipulation.

16 iii. Individual Settlement Payments shall be allocated one hundred
17 percent (100%) as non-wage penalties not subject to payroll tax withholdings. The Settlement
18 Administrator shall issue an IRS Form 1099 to each Aggrieved Employee along with the Individual
19 Settlement Payment.

20 iv. Individual Settlement Payment checks shall remain negotiable for
21 one hundred eighty (180) days from the date of mailing. If an Individual Settlement Payment check
22 remains uncashed after one hundred eighty (180) days from issuance, the Settlement Administrator
23 shall distribute the value of the uncashed check to the State Controller's Office Unclaimed Property
24 Fund in the name of the Aggrieved Employee. In such event, such Aggrieved Employees shall
25 nevertheless remain bound by the Settlement.

26 v. It is expressly understood and agreed that the receipt of Individual
27 Settlement Payments shall not entitle any Aggrieved Employee to additional compensation or
28 benefits under any collective bargaining agreement or under any bonus, contest, or other

1 compensation or benefit plan or agreement in place during the period covered by the Settlement,
2 nor shall it entitle any Aggrieved Employee to any increased pension and/or retirement, or other
3 deferred compensation benefits. It is the intent of the Parties that the Individual Settlement
4 Payments provided for in this Stipulation are the sole payments to be made by Defendant to the
5 Aggrieved Employees in connection with this Settlement, with the exception of Plaintiff, and that
6 the Aggrieved Employees are not entitled to any new or additional compensation or benefits as a
7 result of having received the Individual Settlement Payments. Furthermore, the receipt of
8 Individual Settlement Payments by the Aggrieved Employees shall not, and does not, by itself
9 establish any general, special, or joint employment relationship between and among the Aggrieved
10 Employees and Defendant.

11 b. Incentive Award. Subject to Court approval, Plaintiff shall be paid an
12 Incentive Award not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00), or any lesser
13 amount as awarded by the Court, for his time and effort in bringing and presenting the Action and
14 for releasing his Released Claims. Defendant shall not oppose or object to Plaintiff's request for
15 an Incentive Award in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00).
16 The Incentive Award shall be paid to Plaintiff from the Settlement Fund no later than ten (10) days
17 after Defendant provides the Settlement Administrator with the Settlement Fund. The Settlement
18 Administrator shall issue an IRS Form 1099 to Plaintiff for his Incentive Award. Plaintiff shall be
19 solely and legally responsible to pay any and all applicable taxes on his Incentive Award and shall
20 hold harmless Defendant, Plaintiff's Counsel, and Defense Counsel from any claim or liability for
21 taxes, penalties, or interest arising as a result of payment of the Incentive Award. The Incentive
22 Award shall be made in addition to Plaintiff's Individual Settlement Payment. Any amount
23 requested by Plaintiff for the Incentive Award and not awarded by the Court shall become part of
24 the PAGA Fund and shall be distributed to the LWDA and to the Aggrieved Employees as part of
25 their Individual Settlement Payments.

26 c. Plaintiff's Counsel Award. Subject to Court approval, Plaintiff's Counsel
27 shall be entitled to receive reasonable attorneys' fees in an amount not to exceed one-third (1/3) of
28 the Settlement Fund, which amounts to One Hundred Eighty Five Thousand Three Hundred Thirty

1 Three Dollars and Thirty Three Cents (\$185,333.33). In addition, subject to Court approval,
2 Plaintiff's Counsel shall be entitled to an award of reasonable costs associated with Plaintiff's
3 Counsel's prosecution of the Action in an amount not to exceed Twenty Thousand Dollars
4 (\$20,000.00). Plaintiff's Counsel shall provide the Settlement Administrator with a properly
5 completed and signed IRS Form W-9 in order for the Settlement Administrator to process the
6 Plaintiff's Counsel Award approved by the Court. Defendant shall not oppose or object to
7 Plaintiff's request for an award of attorneys' fees in an amount not to exceed One Hundred Eighty
8 Five Thousand Three Hundred Thirty Three Dollars and Thirty Three Cents (\$185,333.33) and
9 request for an award of reasonable costs not to exceed Twenty Thousand Dollars (\$20,000.00). In
10 the event that the Court awards Plaintiff's Counsel less than One Hundred Eighty-Five Thousand
11 Three Hundred Thirty Three Dollars and Thirty Three Cents (\$185,333.33) in attorneys' fees and/or
12 less than Twenty Thousand Dollars (\$20,000.00) in costs, the difference shall become part of the
13 PAGA Fund and shall be distributed to the LWDA and the Aggrieved Employees as part of their
14 Individual Settlement Payments. Plaintiff's Counsel shall be paid any Court-awarded attorneys'
15 fees and costs from the Settlement Fund no later than ten (10) days after Defendant provides the
16 Settlement Administrator with the Settlement Fund. Plaintiff's Counsel shall be solely and legally
17 responsible to pay all applicable taxes on the Plaintiff's Counsel Award. The Settlement
18 Administrator shall issue an IRS Form 1099 to Plaintiff's Counsel for the Plaintiff's Counsel
19 Award. This Settlement is not conditioned upon the Court awarding Plaintiff's Counsel any
20 particular amount of attorneys' fees or costs, unless the amount awarded is more than specified in
21 this paragraph.

22 d. Settlement Administration Costs. The Settlement Administration fees and
23 expenses, which are estimated not to exceed Ten Thousand Dollars (\$10,000.00) shall be paid from
24 the Settlement Fund. The Parties agree to cooperate in the Settlement Administration process and
25 to make all reasonable efforts to control and minimize Settlement Administration Costs.

26 i. The Parties each represent they do not have any financial interest in
27 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator
28 that could create a conflict of interest.

1 ii. The Settlement Administrator shall keep the Parties timely apprised
2 of the performance of all Settlement Administrator responsibilities required by the Settlement. The
3 Settlement Administrator shall be authorized to establish a Qualified Settlement Fund (“QSF”)
4 pursuant to IRS rules and regulations in which the Settlement Fund shall be placed and from which
5 payments required by the Settlement shall be made.

6 39. Approval Hearing and Entry of Judgment. An Approval Hearing shall be conducted
7 to determine whether to grant approval of the Settlement, including determining the amounts
8 properly payable for: (i) the Plaintiff’s Counsel Award; and (ii) the Incentive Award. If the Court
9 grants approval of the Settlement, the Settlement Administrator shall post notice of final judgment
10 on its website within seven (7) calendar days of entry of the Judgment.

11 40. Nullification of Settlement. In the event: (i) the Court does not enter the Judgment;
12 or (ii) the Settlement does not become final for any other reason, this Stipulation shall be rendered
13 null and void, any order or judgment entered by the Court in furtherance of this Settlement shall be
14 treated as void from the beginning, and this Stipulation and any documents related to it shall not be
15 used in any other civil, criminal, or administrative action against Defendant or any of the other
16 Released Parties. In the event an appeal is filed from the Judgment, or any other appellate review
17 is sought, administration of the Settlement shall be stayed pending final resolution of the appeal or
18 other appellate review. Any fees incurred by the Settlement Administrator prior to it being notified
19 of the filing of an appeal from the Judgment, or any other appellate review, shall be paid by
20 Defendant to the Settlement Administrator.

21 41. Adjustment of Settlement Amount. The Maximum Settlement Amount was
22 negotiated and is premised on the understanding that there are approximately 27,805 pay periods
23 worked by Aggrieved Employees during the PAGA Period. In the event that the total number of
24 pay periods exceeds that number by ten percent (10%) or more, Defendant will either (a) increase
25 the Maximum Settlement Amount by one percent (1%) for every one percent (1%) increase in pay
26 periods over the ten percent (10%) threshold, or (b) elect to set the end date for the PAGA Period
27 on the date when the total pay periods for the PAGA Period would be 30,586.

28

1 42. No Admission by Defendant. Defendant denies all claims alleged in this Action and
2 denies all wrongdoing whatsoever by Defendant. Neither this Stipulation, nor any of its terms and
3 conditions, nor any of the negotiations connected with it, is a concession or admission, and none
4 shall be used against Defendant as an admission or indication with respect to any claim of any fault,
5 concession, or omission by Defendant. The Parties agree that this Stipulation shall not be
6 admissible in this or any other proceeding as evidence that Defendant is liable to Plaintiff or any
7 Aggrieved Employee, other than according to the terms of this Stipulation.

8 43. Exhibits and Headings. The terms of this Stipulation include the terms set forth in
9 any attached Exhibits, which are incorporated by this reference as though fully set forth herein.
10 The Exhibits to this Stipulation are an integral part of the Settlement. The descriptive headings of
11 any paragraphs or sections of this Stipulation are inserted for convenience of reference only.

12 44. Interim Stay of Action. The Parties agree to stay and to request that the Court stay
13 all proceedings in the Action, except such proceedings necessary to implement and complete the
14 Settlement and enter the Judgment.

15 45. Amendment or Modification. This Stipulation may be amended or modified only
16 by a written instrument signed by counsel for all Parties or their successors-in-interest.

17 46. Entire Agreement. This Stipulation and any attached Exhibits constitute the entire
18 agreement between the Parties, and no oral or written representations, warranties, or inducements
19 have been made to Plaintiff or Defendant concerning this Stipulation or its Exhibits other than the
20 representations, warranties, and covenants contained and memorialized in this Stipulation and its
21 Exhibits. No other prior or contemporaneous written or oral agreements may be deemed binding
22 on the Parties.

23 47. Authorization to Enter into Settlement Agreement. Plaintiff's Counsel and Defense
24 Counsel warrant and represent they are expressly authorized by the Parties whom they represent to
25 negotiate this Stipulation and to take all appropriate actions required or permitted to be taken by
26 such Parties pursuant to this Stipulation to effectuate its terms, and to execute any other documents
27 required to effectuate the terms of this Stipulation. The Parties, Plaintiff's Counsel, and Defense
28 Counsel shall cooperate with each other and use their best efforts to effect the implementation of

1 the Settlement. In the event that the Parties are unable to reach agreement on the form or content
2 of any document needed to implement the Settlement, or on any supplemental provisions that may
3 become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of
4 the Court and/or Lisa Klerman to resolve such disagreement. The persons signing this Stipulation
5 on behalf of Defendant represent and warrant that they are authorized to sign this Stipulation on
6 behalf of Defendant. Plaintiff represents and warrants that he is authorized to sign this Stipulation
7 and that he has not assigned any claim, or part of a claim, covered by this Settlement to a third-
8 party. Plaintiff acknowledges that he has read this Stipulation, that he fully understands his rights,
9 privileges, and duties under the Stipulation, and enters this Stipulation freely and voluntarily.
10 Plaintiff further acknowledges that he has had the opportunity to consult with his attorneys to
11 explain the terms of this Stipulation and the consequences of signing this Stipulation. Additionally,
12 the Parties have cooperated in the drafting and preparation of this Stipulation. Hence, in any
13 construction made of this Stipulation, the same shall not be construed against any of the Parties.

14 48. Fees and Costs. The Parties shall each bear their own costs, attorneys' fees,
15 mediator fees, and other fees incurred in connection with this Stipulation and in connection with
16 the Action and Plaintiff's claims, except as otherwise set forth specifically herein.

17 49. Binding on Successors and Assigns. This Stipulation shall be binding upon, and
18 inure to the benefit of, the successors and assigns of the Parties.

19 50. California Law Governs. All terms of this Stipulation and the Exhibits hereto shall
20 be governed by and interpreted according to the laws of the State of California, without giving
21 effect to any law that would cause the laws of any jurisdiction other than the State of California to
22 be applied.

23 51. Counterparts. This Stipulation may be executed in one or more counterparts. All
24 executed counterparts and each of them shall be deemed to be one and the same instrument.

25 52. Jurisdiction of the Court. Following entry of the Judgment, the Court shall retain
26 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this
27 Stipulation and all orders and judgments entered in connection therewith, and the Parties, Plaintiff's
28 Counsel, and Defense Counsel submit to the jurisdiction of the Court for purposes of interpreting,

1 implementing, and enforcing the Settlement embodied in this Stipulation and all orders and
2 judgments entered in connection therewith.

3 53. Invalidity of Any Provision. Before declaring any term or provision of this
4 Stipulation invalid, the Parties request that the Court first attempt to construe the terms or provisions
5 valid to the fullest extent possible consistent with applicable precedents so as to define all
6 provisions of this Stipulation as valid and enforceable.

7
8 Dated: Oct 30, 2023, 2023


carlin cato (Oct 30, 2023 19:38 PDT)
Plaintiff Carlin Cato

9
10 Dated: 11/2, 2023

Defendant Unity Courier Service, Inc.

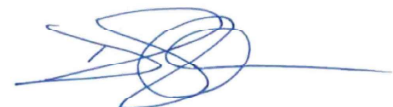
11 By: Alex Gil
Alex Gil (Nov 3, 2023 13:57 PDT)
Alex Gil

12
13 Its: Director of Operations

14 Approved as to form and content:

15 Dated: 10/30, 2023

MATERN LAW GROUP, PC

16
17 By: 
18 MATTHEW J. MATERN
19 DEANNA S. LEIFER
20 KRISTEN B. DOYAN
Attorneys for Plaintiff CARLIN CATO,
21 individually, and on behalf of all other aggrieved
employees

22 Dated: 11/3, 2023

FISHER & PHILLIPS, LLP

23
24 By: 
25 TODD B. SCHERWIN
26 SHAUN J. VOIGT
27 ARIELLA M. KUPETZ
Attorneys for Defendant UNITY COURIER
28 SERVICE, INC.

EXHIBIT 1

Mailing Date

NOTICE OF SETTLEMENT UNDER THE CALIFORNIA PRIVATE ATTORNEYS GENERAL ACT

Name

Address

Dear NAME:

Cato v. Unity Courier Service, Inc., et al.

Alameda County Superior Court Case No. 20CV020346

You are receiving the enclosed check in settlement of a lawsuit entitled *Cato v. Unity Courier, Inc., et al.*, Alameda Superior Court Case No. 20CV020346. In the lawsuit, Carlin Cato (“Plaintiff”) pursued various claims against Unity Courier Service, Inc. (“Unity Courier” or “Defendant”) under Labor Code § 2699 *et seq.*, the California Private Attorneys General Act of 2004 (“PAGA”). Defendant denies all of the allegations and liability for any claims in this case. The Court has approved the Settlement on behalf of the following employees (“Aggrieved Employees”): all current and former non-exempt employees of Unity Courier in California at any time during the time period from August 20, 2021 to July 19, 2023 (the “PAGA Period”).

The enclosed check for \$_____ is your share of the Settlement. Your settlement amount represents penalties and will be reported on an IRS Form 1099. Your check is valid for 180 days from the date of mailing. Funds attributable to any uncashed check will be sent to the State Controller’s Office Unclaimed Property Fund in the name of the Aggrieved Employee.

As a result of the Settlement, all Aggrieved Employees and the California Labor and Workforce Development Agency (“LWDA”) have released Defendant and its present or former parents, owners, subsidiaries, and any affiliated or related persons or entities and each of its officers, directors, employees, partners, shareholders, attorneys and agents, and any other predecessors, successors, assigns, or legal representatives from the following Released Claims: of any and all claims and/or causes of action under PAGA which are based upon the factual allegations set forth in the operative complaint and/or Plaintiff’s PAGA notice to the LWDA and arising at any time during the PAGA Period. The scope of the Aggrieved Employees’ Released Claims is intended to encompass any and all claims for statutory penalties that could have been sought by the Labor Commissioner for the alleged violations identified in Plaintiff’s operative complaint and/or pre-filing notice to the LWDA.