Ian G. Robertson, Bar No. 283151
irobertson@littler.com
LITTLER MENDELSON, P.C.
18565 Jamboree Road
Suite 800
Irvine, California 92612
Telephone: 949.705.3000
Fax No.: 949.724.1201

Attorneys for Defendants
BERNEL, INC. dba VFS FIRE & SECURITY SERVICES and JOSEPH BUVEL

Danny Yadidsion, Esq., SBN 260282
Noël Harlow, Esq., SBN 256124
LABOR LAW PC
100 Wilshire Blvd., Suite 700
Santa Monica, California 90401
Telephone: (310) 494-6082
Danny@LaborLawPC.com
Noel.Harlow@LaborLawPC.com

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

GREGORY MCCLENDON, individually and on,

Plaintiff,

v.

BERNEL, INC. dba VFS FIRE & SECURITY SERVICES; RICHARD ENNIS; JOSEPH BUVEL; CHRISTOPHER HARRIS; and DOES 1- 50, inclusive,,

Defendant.

Case No. 30-2022-01277447-CU-OE-CXC

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE

ASSIGNED FOR ALL PURPOSES TO JUDGE LAYNE H. MELZER, DEPT. CX102

Trial Date: None Set
Complaint Filed: August 25, 2022

This Class Action and PAGA Settlement Agreement, Release, and Stipulation is entered into between Defendants BERNEL, INC. dba VFS FIRE & SECURITY SERVICES and JOSEPH BUVEL ("Defendants") and Plaintiff GREGORY MCCLENDON ("Named Plaintiff") in the Action (as defined below).

DEFINITIONS

1. Action. The "Action" means the class action and PAGA complaints and charges, including the lawsuit entitled, *Gregory McClendon v. Bernel, Inc. dba VFS Fire & Security Services, et al.,* Orange County Superior Court Case No. 30-2022-01277447-CU-OE-CXC.

2. Agreement. "Agreement" shall refer to the instant Class Action and PAGA Settlement Agreement, Release, and Stipulation.

3. Class Counsel. "Class Counsel" means Danny Yadidsion and Noël Harlow of Labor Law PC and/or any successor(s) thereof.

4. Class Members, the Class, and Settlement Class Members. "Class Members" means all persons who are employed or have been employed by Defendants in the State of California as hourly and/or other non-exempt employees during the Class Period. The "Settlement Class" or "Settlement Class Members" means all Class Members other than those who opt-out (see Paragraphs 21 and 57.d).

5. Class Notice. "Class Notice" means the document mutually agreed upon by the Parties and approved by the Court to be sent to the Class in English and Spanish following preliminary approval that includes the scope of release language for Released Claims, notifies Class Members of the Settlement, explains the Settlement and Class Members' options, including how Class Members may opt out or object to the Settlement, and explains the facts and methods based on which the Class Member's estimated settlement payments are calculated, substantially in the form attached hereto as "**Exhibit A**".

6. Class Period. "Class Period" means August 25, 2018 through August 17, 2023.

7. Complaint. "Complaint" means the operative complaint in the lawsuit entitled, *Gregory McClendon v. Bernel, Inc. dba VFS Fire & Security Services, et al.,* Orange County Superior Court Case No. 30-2022-01277447-CU-OE-CXC, including any amendments thereto.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

8. The Court. The "Court" refers to the Orange County Superior Court or other court or courts that will approve the Action, whether individually or together.

9. Day. "Day" refers to a calendar day(s) unless otherwise stated. If any designated date or deadline falls on a weekend or holiday, the designated date or deadline will occur on the next business day.

10. Defendants. "Defendant" means BERNEL, INC. dba VFS FIRE & SECURITY SERVICES. Individual Defendant JOSEPH BUVEL is referred to as "Defendant Buvel." Defendant and Defendant Buvel are cumulatively referred to as "Defendants."

11. Effective Date. "Effective Date" means the first business day following the last of the following occurrences: (i) if no Class Member and/or PAGA Member timely and properly intervenes, files a timely motion to vacate the Final Judgment under, or objects or otherwise challenges the Settlement, then sixty-one (61) days after the date the Court enters an Order Granting Final Approval of the Settlement and Final Judgment; or (ii) if a Class Member and/or PAGA Member timely intervenes or files a motion to vacate the Final Judgment, or objects or otherwise challenges the Settlement, and files a timely appeal, then five (5) days after the Court receives the mandate reflecting the final resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari),* resulting in final and complete judicial approval of the Settlement in its entirety without modification, with no further challenge to the Settlement being possible. Defendant shall deposit all sums necessary to fund the Settlement after the Effective Date based on the schedule explained in Paragraph 51 of this Agreement. In the event an appeal, writ, motion challenging the judgment, or other collateral attack is made after the Effective Date, the funds shall not be distributed until all challenges are resolved in a manner that upholds the Settlement in its entirety and shall be returned if the Agreement is not finally and completely approved in all respects.

12. Exclusion Period. The "Exclusion Period" means the time period commencing on the date the Class Notice is mailed to Class Members via First Class U.S. and ending sixty (60) days later on the deadline to submit an Opt-Out Request or Objection.

13. Final Judgment. "Final Judgment" means the judgment entered and filed by the Court that: (1) finally approves this Agreement and the Settlement and disposes all class issues

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

raised in this Action, bars through collateral estoppel and/or res judicata Settlement Class Members from reasserting Released Claims against Released Parties; (2) finally approves this Agreement and the Settlement and disposes all PAGA issues and claims raised in this Action, bars through collateral estoppel and/or res judicata PAGA Members from reasserting PAGA Claims against Released Parties; and (3) awards and orders the payment of all required amounts pursuant to the terms of this Agreement (approved Class Counsel's attorneys' fees and costs, Settlement Payments to Class Members and PAGA Payments to PAGA Members, any class representative enhancement to Named Plaintiff, *etc.*). The Final Judgment will constitute a binding and final resolution of any and all claims by the Named Plaintiff and all Settlement Class Members as to all Released Claims and all PAGA Members as to all Released PAGA Claims as set forth in this Agreement.

14. Final Settlement Approval Hearing. "Final Settlement Approval Hearing" means the hearing at which the Court shall consider the motion for final approval of this Settlement and determine whether to fully and finally approve the fairness and reasonableness of this Settlement and Agreement, and enter an order barring through collateral estoppel and/or res judicata Settlement Class Members from asserting Released Claims against Released Parties and all PAGA Members from pursuing Released PAGA Claims against Released Parties.

15. Funding Payments. "Funding Payments" means the payment(s) remitted to the Settlement Administrator ("SA") by or on behalf of Defendant following Final Judgment and the Effective Date in full and complete discharge of the entire monetary obligation of Defendant in an amount equal to the GSA, which, as set forth herein, shall satisfy all outstanding and awarded Settlement Payments, PAGA Payments, attorneys' fees and costs awarded to Class Counsel, the Named Plaintiff' enhancement awards as awarded by the Court, outstanding payments to the SA as approved by the Court for settlement administration costs, and the payment to the Labor Workforce Development Agency (or "LWDA"), minus any amounts already paid under the Agreement.

16. General Release. "General Release" means the broader release of claims by Plaintiff, which is in addition to Plaintiff's limited release of claims as a Participating Class Member.

17. Gross Settlement Amount or GSA. "Gross Settlement Amount" or "GSA" means a fixed total payment of Six Hundred Twenty Five Thousand Dollars and Zero Cents

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

($625,000.00), payable by Defendant under this Agreement, which shall satisfy all outstanding and awarded Settlement Payments, PAGA Payments, attorneys' fees and costs awarded to Class Counsel, the Named Plaintiff's enhancement awards as awarded by the Court, outstanding payments to the SA as approved by the Court for settlement administration costs, and the payment to the LWDA.

18. Last Known Address. "Last Known Address" means the most recently recorded mailing address for a Class Member and/or PAGA Member contained in Defendant's records.

19. Named Plaintiff. "Named Plaintiff" means Plaintiff Gregory McClendon.

20. Net Settlement Amount or "NSA". "Net Settlement Amount" or "NSA" means the Gross Settlement Amount less the amounts deducted pursuant to Paragraphs 51a through 51e of this Agreement, including deductions of the amounts awarded to Class Counsel, the enhancement award to the Named Plaintiff, the payment to the LWDA to resolve claims under the PAGA, and the costs awarded for settlement administration owed pursuant to this Agreement.

21. Objection. "Objection" means a written request, which a Class Member may submit no later than the last day of the Exclusion Period and in the form specified in Paragraph 58 in order to object to the Settlement, or a personal appearance, or other appearance permitted by the Court, at the final approval hearing to object.

22. Opt-Out Request. "Opt-Out Request" must (1) contain the name, address, and telephone number of the person requesting exclusion; (2) contain the last four numbers of the Class Members' social security number or the employee number or dates of employment or provide a similar basis to identify the individual; (3) be signed by the Class Member; (4) be postmarked or fax stamped within the Exclusion Period [60 days after mailing date] and returned to the Settlement Administrator at the specified address or fax number. (See Paragraph 57.d.) A Class Member who opts-out and otherwise qualifies as a PAGA Member will remain a PAGA Member despite opting out of the Class Settlement.

23. Order of Final Approval or Order Granting Final Approval of Settlement. "Order of Final Approval" or "Order Granting Final Approval of Settlement" or "Final Approval" means the order issued in conjunction with the entry of the Final Judgment to be submitted by the

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

Named Plaintiff together with the Motion for Final Approval of the Settlement for entry and filing by the Court as specified in this Settlement.

24. PAGA Period. "PAGA Period" means August 26, 2021 through August 17, 2023.

25. PAGA Member. "PAGA Members" means all persons who are employed or have been employed by Defendant in the state of California as non-exempt employees during the PAGA Period.

26. PAGA Payment and PAGA Allocation. Of the Gross Settlement Amount, $40,000 shall be paid for the Released PAGA claims. "PAGA Allocation" means the amounts distributed among PAGA Members and is the amount remaining from the $40,000.00 (after subtracting the $30,000 allocated to the LWDA) divided by the total number of PAGA Workweeks Worked credited to all PAGA Members. Each PAGA Member's PAGA Payment is equal to the PAGA Workweek Rate multiplied by his or her individual PAGA Workweeks Worked pursuant to the records of Defendant, and will be paid to the PAGA Member even if they opt-out of the Class Settlement.

27. PAGA Workweeks Worked. "PAGA Workweek Worked" means the number of workweeks credited to a PAGA Class Member during the PAGA Period (for the Released PAGA Claims), as determined by Defendant's records and estimates and as only subject to revision pursuant to this Agreement.

28. Parties. "Parties" means Named Plaintiff, individually on behalf of himself and on behalf of all Class Members, PAGA Members, and interests of the LWDA, and Defendants.

29. Preliminary Approval Order. "Preliminary Approval Order" is the order entered and filed by the Court that preliminarily approves the terms and conditions of this Agreement, including approval of the Parties' Agreement that specifies the content of notice and manner in which notice will be provided to the Class and responded to by the Class, substantially in the form attached hereto as "**Exhibit B"**.

30. Released Parties. "Released Parties" means Defendant and its affiliated companies, parents, members, subsidiaries, related companies and business concerns, predecessors

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

and successors, past and present, and each of them, as well as each of their insurers, partners, trustees, directors, shareholders, officers, agents, attorneys, servants and employees (specifically including Defendant Buvel and named defendants Richard Ennis and Christopher Harris), past and present, and each of them and all working with or in concert with them or connected with them.

31. Settlement Administrator. "Settlement Administrator" or "SA" means Phoenix Settlement Administrators or such other neutral administrator as chosen by the Parties and approved by the Court (see Paragraph 55a).

32. Released Claims. "Released Claims" means all claims, allegations, and assertions that were alleged, or reasonably could have been alleged, based on the facts, allegations, assertions, and claims in the operative Complaint and the PAGA administrative remedy exhaustion letter ("PAGA Notice"), and includes, (a) Failure to provide meal periods or pay premium payments for periods (see Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 1-2001, § 11); (b) Failure to authorize and permit or pay premium payments for rest periods (see Labor Code §§ 226.7, 512; IWC Wage Order No. 1-2001, § 12); (c) any and all claims involving any alleged failure to pay minimum wage, contract wages, overtime, or other amounts of wages for failing to "compensate Plaintiff and Settlement Class Members for all wages earned and all hours worked" (see Cal Labor Code §§ 510, 1194, 1194.2; 1197, 1197.1; 1198; IWC Wage Order No. 1-2001, §§ 3-4); (d) failure to timely pay wages during employment (see Labor Code § 204); (e) failure to pay wages due to discharged and quitting employees (see Labor Code §§ 201-203); (f) failure to maintain required records (see Labor Code §§ 226, 1174; 1174.5;IWC Wage Order No. 1-2001, § 7); (g) Failure to provide accurate, itemized wage statements (see Labor Code §§ 226(a), 226.3); (h) Failure to reimburse business expenses (see Labor Code § 2800-2802); (i) failure to properly calculate, accrue, display, and pay mandatory sick pay (see Labor Code § 246, et seq.); and (j) unfair business practices (see Bus. and Prof. Code § 17200, et seq.). "Released Claims" includes all types of relief available for the above-referenced claims, including, without limitation, any claims for damages, restitution, losses, civil and statutory penalties, fines, liens, attorneys' fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. The Final Judgment shall expressly provide that it covers and based on the doctrines of *res judicata* and/or collateral estoppel bars as a matter of

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

law each and every Class Member from asserting any Settled Claims in the future, except for Class Members who have timely opted out of the Settlement.

33. Released PAGA Claims. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged in the operative Complaint and the PAGA Notice based on the facts, allegations, assertions and claims in the operative Complaint and PAGA Notice, and, including, (a) Failure to provide or pay premium payments for meal periods (see Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 1-2001, § 11); (b) Failure to authorize and permit or pay premium payments for rest periods (see Labor Code §§ 226.7, 512; IWC Wage Order No. 1-2001, § 12); (c) any and all claims involving any alleged failure to pay minimum wage, contract wages, overtime, or other amounts of wages for failing to compensate Named Plaintiff and PAGA Members for all wages earned and all hours worked (see Cal Labor Code §§ 510, 1194, 1197, 1198; IWC Wage Order No. 1-2001, §§ 3-4); (d) failure to timely pay wages during employment (see Labor Code § 204); (e) failure to pay wages due to discharged and quitting employees (see Labor Code §§ 201-203); (f) failure to maintain required records (see Labor Code §§ 226, 1174; IWC Wage Order No. 1-2001, § 7); (g) Failure to provide accurate, itemized wage statements (see Labor Code § 226(a)); (h) Failure to reimburse business expenses (see Labor Code § 2800-2802); and (i) failure to properly calculate, accrue, display and pay mandatory sick pay (see Labor Code § 246, et seq.). "Released PAGA Claims" includes all types of relief available for the above-referenced claims, including, without limitation, any claims for civil penalties, attorneys' fees, costs, and declaratory relief. The Final Judgment shall expressly provide that it covers and based on the doctrines of *res judicata* and/or collateral estoppel bars Plaintiff, LWDA, the State of California, and any other representative, proxy, or agent thereof, including but not limited to any and all PAGA Members from prosecuting "Released PAGA Claims" that arose during the PAGA Period.

34. Settlement Class/Settlement Class Member(s). "Settlement Class Member" means all Class Members other than those who have timely and validly submitted Opt-Out Requests and thereby excluded themselves from releasing Released Claims from the Settlement.

35. Settlement Payment. "Settlement Payment" means a payment pursuant to a Settlement Class Member's pro rata allocation of the NSA as specified in Paragraph 51.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

36. Settlement Proceeds Distribution Deadline. "Settlement Proceeds Distribution Deadline" means a date that is fourteen (14) days after the Funding Payment has been made by Defendant to the SA based on the schedule explained in Paragraph 61 of this Agreement.

37. Updated Address. "Updated Address" means a mailing address that was updated by a reasonable address verification measure of the SA or by an updated mailing address provided by the United States Postal Service for a Class Member or PAGA Member.

38. Workweek Rate. "Workweek Rate" for the Released Claims means the amount yielded from dividing the Net Settlement Amount by the total of all Workweeks Worked credited to all Settlement Class Members during the Class Period. Each Settlement Class Member's settlement payment is equal to his or her individual Workweeks Worked during the Class Period and multiplied by the Workweek Rate. Therefore, the amount of each Settlement Class Member's Individual Settlement Payment is tied to the number of Workweeks Worked that each Settlement Class Member worked for Defendant in the State of California in comparison to all Workweeks Worked by all Settlement Class Members in the State of California during the Class Period. Similarly, for the Released PAGA Claims, "Workweek Rate" means the amount yielded from dividing the PAGA Allocation by the total of all Workweeks Worked credited to all PAGA Members during the PAGA Settlement Period.

39. Workweeks Worked. A "Workweek Worked" means the number workweeks worked by a Class Member during the Class Period or PAGA Member during the PAGA Settlement Period (for the Released PAGA Claims), as determined or estimated by Defendant's records and as only subject to revision pursuant to this Agreement.

RECITALS

40. Named Plaintiff filed a class action lawsuit on August 25, 2022, against Defendants alleging eight causes of action for: (1) Failure to Pay Overtime Wages; (2) Failure to Timely Pay Wages During Employment; (3) Failure to Pay All Wages Due to Discharged and Quitting Employees; (4) Failure to Provide Reimbursement for Work-Related Expenses; (5) Failure to Pay Minimum Wage; (6) Failure to Maintain Required Records; (7) Failure to Furnish Accurate, Itemized

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

Wage Statements; (8) Unfair and Unlawful Business Practices (Bus & Prof. Code §17200, et seq. Defendants deny all allegations.[1]

41. Named Plaintiff submitted the PAGA Notice on August 26, 2022, alleging the same claims as the Complaint.

42. At this time, there are no other pending cases or concurrent legal proceedings that are directly or indirectly related to, or arising out of, the same facts, circumstances, or legal issues as the present case.

43. Defendants filed as Answer to the Complaint on December 15, 2022, and denied all allegations and claims asserted therein. Defendants deny that they engaged in any misconduct in connection with its wage-and-hour practices and that they have any liability or engaged in wrongdoing of any kind associated with the claims alleged in the Action, including any Released PAGA Claims. Defendant Buvel denies that he is responsible for any claims or is the employer of the putative class and PAGA Members, and Defendant contends that it has complied at all times with both federal and state wage-and-hour laws, and all other laws regulating the employer-employee relationship that relate to the employment of Named Plaintiff and the Class and PAGA Members.

44. Defendants and Class Counsel, on behalf of Named Plaintiff and the Class Members and aggrieved employees, attended mediation with Kelly Knight, Esq., on August 10, 2023. The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations between the Parties supervised by an experienced employment law mediator. The Parties agree that the Agreement is entered into in good faith as to each Class Member and PAGA Member and that the Settlement is fair, reasonable and adequate as to each Class Member and PAGA Member.

45. Class Counsel is of the opinion that this Settlement is fair, reasonable, and adequate, and in the best interest of the Class and PAGA Members and other relevant interests in light of all known facts and circumstances, including the benefits conferred by the Settlement, the risk of

[1] This Agreement requires an amended Complaint and PAGA letter to clarify that the claims alleged and being settled include failure to pay accrued sick leave and related claims and a failure to pay agreed to or contract wages as described below, pursuant to Paragraph 46.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

significant delay, the uncertainty and risk of the outcome of further litigation, the burdens of proof necessary to establish liability, defenses asserted to the merits, including but not limited to the affirmative defenses asserted as to Settlement Class Members, the risks of proceeding on any class claims and PAGA claims, including class certification, the difficulties in establishing damages and penalties, and the numerous potential appellate issues. While Defendants specifically deny any liability or wrongdoing in the Action, Defendants have agreed to enter into this Settlement to avoid the cost and business disruption associated with defending the Action. Defendants have claimed and continue to claim that the Released Claims and Released PAGA Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. This Agreement, made and entered into by and between the Named Plaintiff (on behalf of himself and on behalf of the Class Members and PAGA Members and interests of the state of California, including the LWDA) and Defendant, each with the assistance of its respective counsel or attorneys of record, is intended to fully, finally, and forever settle, compromise and discharge the Released Claims and Released PAGA Claims against the Released Parties, subject to the terms and conditions set forth herein.

46. Because the Class Case is pled as a class action, this Settlement must receive preliminary and final approval by the Court. Because the PAGA Case is pled as a PAGA action, this Settlement is subject to approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis.

TERMS AND CONDITIONS OF SETTLEMENT

NOW THEREFORE, in consideration of the recitals listed above and the promises and warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings set forth herein, the Named Plaintiff, individually on behalf of himself and on behalf of the Class Members and PAGA Members and LWDA and state of California's interests, on the one hand, and Defendant, on the other hand, agree that the Action shall be, and is finally and fully compromised and settled on the following terms and conditions.

47. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, that they

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

or any of them have: violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees or any other person or entity. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings, payouts or other events associated with it, shall be construed as an admission or concession by Defendants of any such violation(s) or failure(s) to comply with any applicable law by Defendants or any other Released Parties. Except as necessary in a proceeding to approve, interpret or enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of the Released Parties or to establish the existence of any condition constituting a violation of, or noncompliance with, federal, state, local or other applicable law. In addition, as set forth in Paragraph 69, the Parties intend this Settlement to be contingent upon the preliminary and Final Approval of this Agreement; and in the event Final Approval of this Agreement is not obtained the Parties do not waive, and instead expressly reserve, their respective rights to prosecute and defend this Action as if this Agreement never existed in the event the Settlement is not fully and finally approved as set forth herein. In the event that this Agreement is not approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court or any other court with jurisdiction over the Action, the Agreement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, further proceedings in this Action, except that the Court may award less than the amounts listed in Paragraph 51a through 51e without impacting the validity and enforceability of this Agreement and the Parties will be returned to their respective positions prior to entering this Agreement.

48. Amendment of Complaint. Solely for purposes of settling this matter, Named Plaintiff will file an amended Complaint with the approving Court and amended PAGA Notice with the LWDA, which shall be the operative Complaint in this Action. The operative Complaint and PAGA Notice as amended will add Class and PAGA claims for failure to accrue sick pay at the proper rates, to provide written notice of sick pay, and to compensate or provide Class Member and PAGA

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

Members with all accrued paid sick days at the proper rate of pay under Labor Code section 246, and under the PAGA and Unfair Competition Law (Business and Professions Code section 17200, et seq.), and derivative claims, including but not limited to claims for non-compliant wage statements based on the alleged failure to display sick pay accrual and balance. The amendments shall also clarify that the claims include a failure to pay agreed to or contract wages. Solely for purposes of implementing the Settlement, the Parties stipulate that the amendments of the claims shall relate back to the filing of the original Complaint, and shall cover the Class Period and PAGA Period; the Parties agree the proposed preliminary approval order and Final Judgment shall request that should the Settlement not be fully and finally approved, the amendments will be withdrawn, the original complaint shall be deemed the operative complaint, any preliminary certification of a class for settlement purposes shall be deemed void and the Parties shall revert to their positions prior to entering the Settlement in all respects. Subject to Court approval, Defendants' current answer shall be deemed as the operative answer to the Complaint on behalf of Defendants without the need to file an amended answer.

49. Stipulation for Class Certification. The Parties stipulate to the certification of this Settlement Class for purposes of this Settlement only. If, however, the Settlement does not become final for any reason, the Parties' Agreement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, whether class certification would be appropriate in any other context in this Action.

50. Release of Released Claims. As of the Effective Date, Named Plaintiff and all Settlement Class Members hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all Released Claims against any and all Released Parties. In other words, the Settlement includes a release of all Released Claims during the Class Period by Settlement Class Members employed at any time during the Class Period.

a. The Parties agree for settlement purposes only that, because the Class Members are so numerous, it is impossible or impracticable to have each Class Member execute this Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature of the Agreement and such notice shall have the same force and effect as if the Agreement were executed by each Class Member.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

b. Named Plaintiff and Class Counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein released and discharged, except as set forth herein.

c. The Parties agree that this is a settlement of disputed claims not involving undisputed wages, and that Labor Code Section 206.5 is therefore inapplicable.

51. General Release by Plaintiff: Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment, and payment by Defendant to the Settlement Administrator selected of the full Gross Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, in addition to the Release provided by the Plaintiff in Sections 49 .a. through 49 d. of this Agreement, Plaintiff makes the additional following General Release: Plaintiff releases the Released Parties from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule, law or regulation arising out of, relating to, or in connection with any act or omission of the Released Parties through the date of final approval of this Agreement in connection with Plaintiff's employment with Defendant or the termination thereof, except for any and all other claims that may not be released as a matter of law through this Agreement. To the extent of the General Release provided herein, Plaintiff stipulates and agrees that, upon entry of an Order granting Final Approval of the Settlement, entry of Judgment, and payment by Defendant to the Settlement Administrator selected of the full Gross Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, they shall have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

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

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

52. Release of Released PAGA Claims. As of the Effective Date, Named Plaintiff, LWDA, the State of California, and any other representative, proxy, or agent thereof, including but not limited to any and all PAGA Members, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged are barred from prosecuting "PAGA Claims" that arose during the PAGA Period against any and all of the Released Parties. In other words, subject to Court approval, the Agreement includes a settlement of all Released PAGA Claims during the PAGA Period by PAGA Members employed at any time during the PAGA Period to the fullest extent permitted under the PAGA, including settlement contemplated in Labor Code section 2699(l)(2).

53. Settlement Payments and Calculation of Claims. Subject to the Final Approval of the Settlement and the conditions specified in this Agreement, and in consideration of the mutual covenants and promises set forth herein, Defendant agrees to make a payment or payments as set forth herein totaling the fixed amount of Six Hundred Twenty Five Thousand Dollars and Zero Cents ($625,000.00). The GSA shall fully satisfy Defendants' obligations for any and all payments, fees and costs identified in the Agreement, including, but not limited to, any payments to be made to the Named Plaintiff, Settlement Class Members, PAGA Members, the LWDA, Class Counsel's attorneys' fees and out-of-pocket litigation expenses and costs, and settlement administration costs. Other than employer-side payroll taxes, in no event shall Defendant be required to pay any amounts above the GSA under this Settlement and this Agreement except as set for in Paragraph 51 The Parties agree, subject to Court approval, that the GSA shall be apportioned as follows:

a. Attorneys' Fees. Class Counsel will apply to the Court for an award of attorneys' fees of no more than one third (1/3) or thirty-three point three, three, four percent (33.334%) of the GSA or Two Hundred Eight Thousand Three Hundred Thirty Three Dollars and Thirty Three Cents ($208,333.33). The attorneys' fees shall come from and be deducted from the GSA and paid out as set forth herein. Defendant will not oppose such application. There is no existing fee-splitting agreement or arrangement, whether formal or informal, with any other counsel or legal representative in connection with this matter.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

b. Attorneys' Costs. Named Plaintiff and Class Counsel shall request approval of payment of up to but not to exceed Twenty Thousand Dollars and Zero Cents ($20,000.00) in attorneys' costs, including any litigation costs, which will be deducted from the GSA and paid out as set forth herein. Defendants will not oppose such application. Attorneys' fees as specified in the preceding Paragraph and costs as specified in this Paragraph shall cover all claimed and unclaimed attorneys' fees, attorneys' costs and other amounts payable or awardable against Defendant for Class Counsel's work, effort or involvement in the Action and in carrying out the Agreement and includes any and all work, effort or involvement to carry out the terms of the Agreement and as may be potentially or actually necessary or advisable to defend the Agreement and/or Settlement through appeal, or collateral attack or in any other forum or proceeding. These specified Attorneys' Fees and Costs shall be the sole payment for attorneys' fees and costs and, otherwise, the Parties and Class Members and their counsel shall bear their own fees and costs in connection with the Action. Should the Court approve lesser amounts for Attorneys' Fees and Costs, the difference shall be added to the NSA.

c. Administration Fees and Costs. Class Counsel will also apply to the Court for approval of SA costs in an amount not to exceed Eight Thousand Two Hundred Fifty Dollars and Zero Cents ($8,250.00), which will be deducted from the GSA. Defendants will not oppose such application. Class Counsel will specify the amount sought for such costs, up to the foregoing maximum, in Named Plaintiff's motions for preliminary and Final Approval of the Settlement.

d. Named Plaintiff's Enhancement and General Release Payment. Class Counsel will apply to the Court for approval of an enhancement award in an amount not to exceed Ten Thousand Dollars and Zero Cents ($10,000.00) to be paid to Named Plaintiff, from which fifty percent (50%) shall be deemed consideration for a general release and from which fifty percent (50%) shall be for assuming the risks associated with this litigation (including for assuming the risks in the PAGA case). Defendant will not oppose such applications. The enhancement awards are included in, and shall be deducted from, the GSA. Should the Court approve a lesser amount, the difference shall be added to the NSA.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

e. PAGA Allocation and Payments. Pursuant to California Labor Code Section 2698, *et seq.*, the Parties designate Forty Thousand Dollars and Zero Cents ($40,000.00) of the GSA to resolve any PAGA claims (including penalties sought for Named Plaintiff' employment and penalties sought under the PAGA for all other PAGA Members' employment and payment to the LWDA).

i. Defendant shall pay seventy five percent (75%) of that amount, or Thirty-Thousand Dollars and Zero Cents ($30,000.00), to the LWDA and the remainder to PAGA Members. In the event the LWDA refuses to accept the above amount in full for all civil penalties to PAGA Members in connection with the civil penalty claims alleged in this Action, or in the event the LWDA or anyone on its behalf otherwise challenges the above allocation or the Settlement, the Parties shall work in good faith to revise the allocation so that it is accepted.

ii. The remaining Ten Thousand Dollars and Zero Cents ($10,000.00) shall be paid to PAGA Members by multiplying the PAGA Workweek Rate by each individual PAGA Member's PAGA Workweeks Worked.

f. Net Settlement Amount. The NSA will be the amount remaining after deducting the amounts specified in Paragraphs 51a through 51e above (including deducting the amount in 51e.ii, which will be separately distributed to PAGA Members).

g. Settlement Payments to Settlement Class Members. Only the following individuals will receive Settlement Payments under the Settlement Agreement: (1) the Named Plaintiff; (2) Settlement Class Members; and (3) PAGA Members. PAGA Payments will be calculated as set forth in paragraph 25, above, and Settlement Payments will be calculated as follows:

i. The NSA will be divided by the total Workweeks Worked by all Settlement Class Members during the Class Period as reflected in Defendant's records and estimates based on existing records. All Settlement Class Members shall be paid an amount equal to their individual Workweeks Worked during the Class Period, multiplied by the Workweek Rate. Workweeks Worked shall be determined by the SA based on data to be provided by Defendant, as may be modified by the resolution of any challenges.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

ii. The Parties agree that under no circumstances shall Defendants be obligated to pay any amount under this Agreement to any Class Member other than Settlement Class Members and PAGA Members. In addition, the Parties agree that in no event shall Defendants be obligated to pay more than the GSA, except for the separate payment of employer-side payroll taxes, as provided in paragraph 53.

54. Escalator Clause. For purposes of this settlement, Defendant estimated that there were 28,842 workweeks worked by Class Members from the beginning of the Class Period through August 10, 2023 (the "Mediation Date"). Should the actual number of workweeks for Settlement Class Members during the Class Period through the Mediation Date exceed 28,842 by more than ten percent (10%), the GSA shall be increased by the actual percentage of increased workweeks above the 10% cushion. For example, if the Settlement Class Member workweeks through the Mediation Date exceed 28,842 by 16%, Defendant shall owe an additional amount equal to 6% of the GSA to proportionately increase the workweek rate of each Settlement Class Member due to the increase in Workweeks Worked. Any additional payment contemplated by this paragraph will not impact enhancement payments or the amount of the PAGA payment. Rather, any additional amounts paid pursuant to this paragraph will be used to increase payments to Settlement Class Members. Alternatively, Defendant shall have the option of ending the Class Period and PAGA Period on the date on which the number of class workweeks equals or does not exceed 31,727 workweeks (28,842 + 10%).

iii. The Parties acknowledge and agree that the formula used to calculate Workweeks Worked, individual Settlement Payments, PAGA Workweeks Worked, and PAGA Payments does not imply that all of the elements of damages covered by the release are not being taken into account. The above formulas were devised as practical and logistical tools to simplify the payment process.

55. No Credit Toward Benefit Plans. The Settlement Payments made to Settlement Class Members and PAGA Payments made to PAGA Members under this Agreement shall not be utilized to calculate any additional benefits under any benefit plans to which any Settlement Class Members or Class Members or PAGA Members may be eligible, including, but not limited to: profit-

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Agreement will not affect any rights, contributions, or amounts to which any Settlement Class Members, Class Members and PAGA Members may be entitled under any benefit plans.

56. Taxation of Settlement Proceeds. All taxable portions of Settlement Payments shall be paid in a net amount after applicable employee state and federal tax withholdings, including employee-side payroll taxes, if any, have been deducted.

a. The Parties agree that the Settlement Payments will be allocated as follows: forty percent (40%) to wages, for which an IRS Form W-2s shall be issued, forty percent (40%) for alleged civil and statutory penalties, and twenty percent (20%) for alleged interest on unpaid wages and any other non-wage related amount, if any, and will be reported as such to each Settlement Class Member on an IRS Form 1099. The PAGA Payments to PAGA Members will be designated as payments for alleged penalties and other non-wage amounts. The portions of the Settlement Payments allocated to penalties, interest or other non-wage amounts and the PAGA Payments will be paid without tax withholdings and will be reported as such to each Settlement Class Member and/or PAGA Member on an IRS Form 1099.

b. The SA shall calculate, withhold from the Settlement Payments, and remit to applicable governmental agencies sufficient amounts, if any, as may be owed by Settlement Class Members for applicable employee taxes. The SA will issue appropriate tax forms, if required, to each such Settlement Class Member consistent with the foregoing breakdown. The SA shall also calculate and obtain from Defendant and remit to applicable governmental agencies sufficient amounts, if any, as may be owed for employers'-side payroll taxes based on the wage portion of the Settlement Payments.

c. All Parties represent that they have not received, and shall not rely on, advice or representations from other parties or their agents, including Class Members and PAGA Members, regarding the tax treatment of payments under federal, state, or local law. In this regard, Defendants makes no representations regarding the taxability of the Settlement Payments and PAGA Payments.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

d. Class Counsel will be issued an IRS Form 1099 for any fees and costs awarded by the Court pursuant to Paragraph 51. Except as provided in Paragraph 51, each Party shall bear his, her or its own attorneys' fees, costs, and expenses incurred in the prosecution, defense, or settlement of the Action. Class Counsel agrees that any allocation of fees between or among each of the Class Counsel or among the Class Counsel and any other attorney that may be representing Named Plaintiff or the Class, if any, shall be the sole responsibility of Class Counsel. Each Party to this Agreement (for purposes of this section, the "acknowledging party" and each Party to this Agreement other than the acknowledging party, an "other party") acknowledges and agrees that no provision of this Agreement, and no written or oral communication or disclosure or other representation by Defendant and/or Released Parties is or was intended to be, nor shall be construed or be relied upon as, tax advice, and Named Plaintiff, Class Members and PAGA Members shall not rely on Defendant and/or Released Parties for any tax advice with respect to the Settlement of this Action.

e. The Named Plaintiff will be issued an IRS Form 1099s for any enhancement awards approved by the Court pursuant to Paragraph 51. The enhancement awards payable to the Named Plaintiff shall be in addition to the Settlement Payments and PAGA Payments that Named Plaintiff will receive.

57. Provisional Approval of Settlement. Named Plaintiff shall file a motion in the Action and take all other action to request that the Court enter the Preliminary Approval Order based on an agreed-upon Settlement schedule, subject to Court approval:

a. Seeking class certification on the terms set forth in this Agreement solely for purposes of the Class Settlement;

b. Preliminarily approving the proposed Settlement and this Agreement, including the payments to the Settlement Class Members, Class Counsel, the Named Plaintiff, PAGA Members, the SA, and the LWDA;

c. Preliminarily approving the appointment of the Named Plaintiff as representative of the Class for settlement purposes;

d. Preliminarily approving the appointment of counsel for Named Plaintiff as Class Counsel;

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

e. Appointing and approving a SA as chosen by the Parties and approved by the Court, to administer the notice, opt-out requests, objections and Settlement Payment and PAGA Payment procedures required by this Agreement;

f. Approving the form of the Class Notice mutually agreed by the Parties;

g. Scheduling the Final Settlement Approval Hearing for consideration of Final Approval of this Agreement;

h. Requiring that any Class Members who object to the Settlement Agreement submit any objection to the SA postmarked by the end of the Exclusion Period or appear in person or by other Court approved means at the Final Approval Hearing, and that the Parties be given an opportunity to file written responses to any objection(s) with the Court;

i. Approving the procedure for Class Members to submit Opt-Out Requests, and setting a date after which no Class Members shall be allowed to submit Opt-Out Requests; and

j. Approving the procedure for Settlement Class Members to object to the Settlement.

k. Defendants shall not oppose Class Counsel's motions for preliminary approval and Final Approval of the Settlement so long as the motions and supporting papers are consistent with the terms of this Agreement. Class Counsel shall provide Defendants with an opportunity of 5 days to review, and provide comments on the motions for preliminary and Final Approval of the Settlement before the motion and supporting papers are filed with the Court. The Parties will meet and confer and agree upon the wording of the settlement packages to be sent to Class Members, as well as the proposed orders for preliminary and Final Approval before filing. Failure of the Court to grant the Preliminary Approval Order will be grounds for the Parties to terminate the Settlement and the terms of the Agreement, except that the Parties must first work in good faith to file any amended or supplemental motions as necessary to secure preliminary approval and must work in good faith to comply with any changes to the Settlement proposed by the Court to the extent the changes are acceptable by both Parties. The Court may award less than the amounts listed in Paragraph subparts 51a through 51e without impacting the validity and enforceability of this Agreement, and

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

such action by the Court will not constitute grounds for the Parties to terminate the Settlement and the terms of the Agreement.

58. Notice Procedure.

a. Settlement Administrator. The Parties will use Phoenix Class Action Administration Solutions or a another mutually agreeable third-party SA to distribute the Class Notice and the Settlement Payments and PAGA Payments and handle the tax reporting and field any questions from Class Members and/or PAGA Members with a hotline. The SA (along with any of its agents) shall represent and warrant that it will: (a) provide reasonable and appropriate administrative, physical and technical safeguards for any personally identifiable information ("PII"), which it receives from Defendants; (b) not disclose the PII to Class Counsel, Named Plaintiff, any party or third parties, including agents or subcontractors, without Defendant's consent; (c) not disclose or otherwise use the PII other than to carry out its duties as set forth herein; (d) promptly provide Defendant with notice if PII is subject to unauthorized access, use, disclosure, modification, or destruction; and (e) continue to protect the PII upon termination of its services.

b. Class Member Data. Within thirty (30) days after filing of the Preliminary Approval Order, or within the time ordered by the court, Defendants shall provide to the SA a list of Class Members and PAGA Members that identifies for each Class Member/PAGA Member, his/her Social Security number, last-known address, and the workweek numbers and other Class Member data confirm qualifying Workweeks Worked and PAGA Workweeks Worked or will forward the start and end date(s) of employment for the SA to calculate the Workweeks Worked and PAGA Workweeks Worked. Defendants agree to consult with the SA as required to provide the list in a format reasonably acceptable for the duties of the SA. The SA will keep the list confidential, use it only for the purposes described herein, take adequate safeguards to protect confidential or private information and return or certify the destruction of the information or continued safeguarding of the information upon completion of the Settlement Administration process.

59. Class Notice. The Class Notice will include information on how Class Members may opt-out of or object to the Settlement and a procedure by which a Class Member may challenge the number of Workweeks Worked identified on his/her Class Notice. The Named Plaintiff

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

will seek approval of language in the Class Notice in the motion for preliminary approval and will seek permission for the Parties in conjunction with the SA to be able to correct immaterial errors on these forms or other mailed materials without approval from the Court, provided the changes do not alter the preliminary approval by the Court. Once the Court approves the Class Notice, the SA will send it to each Class Member and PAGA Members by First-Class U.S. Mail.

a. Settlement Administrator Duties. Prior to mailing the Class Notice, the SA will update the addresses for the Class Members and PAGA Members using the National Change of Address database and other available resources deemed suitable by the SA. To the extent this process yields a different address from the one supplied by Defendants ("Updated Address"), that Updated Address shall replace the address supplied by Defendants ("Last Known Address") and be treated as the new Last Known Address for purposes of this Agreement and for subsequent mailings in particular. The Settlement Administrator shall be permitted to provide notices and communicate to the Class and PAGA Members in a format and statement to be provided to the Court, which Named Plaintiff will submit in conjunction with the motion for preliminary approval and/or motion for Final Approval.

b. Class Notice Procedure. Within fourteen (14) days after receipt of the above information from Defendant, the SA shall send the Class Notice to each Class Member's and PAGA Member's Last Known Address or Updated Address (if applicable) via First-Class U.S. mail.

c. Exclusion Period. Class Members will have sixty (60) days from the postmark of the initial mailing of the Class Notice by the SA to submit by U.S. mail their Opt-Out Requests, with proof of date of submission to be the postmark date of the completed Opt-Out Request. Class Members will also have sixty (60) days to object to the Settlement by submitting a written objection with the SA that sets forth the basis of the objection pursuant to Paragraph 58, which the SA shall submit to the Parties within 10 days after the end of the Exclusion Period, and Class Counsel shall submit to the Court. Opt-Out Requests do not apply to the Released PAGA Claims and will not exclude PAGA Members from the release of Released PAGA Claims.

d. SA Follow-up efforts.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

i. The SA shall re-mail by First-Class U.S. mail the Class Notice returned by the Post Office with a forwarding address, and shall re-mail by First-Class U.S. mail the Class Notice to any Class Member/PAGA Member who personally provides an updated address to the SA.

ii. In the event that the first mailing of the Class Notice to any Class Member/PAGA Member is returned without a forwarding address, the SA will immediately perform skip trace(s) if necessary using social security numbers provided by Defendant and National Change of Address searches, as needed, to verify the accuracy of the addresses provided and will conduct a second round of mailings of the Class Notice by First-Class, U.S. mail within an agreed number of days for those forms returned to sender. If no new information is ascertained by means of a skip trace, or if the Class Notice is returned to SA after using an address obtained from a standard skip trace, the SA will immediately perform a manual "in-depth skip trace" to locate a more recent or accurate address. If an Updated Address is identified by this method, the SA will resend the Class Notice to the Updated Address within three (3) days of identifying the Updated Address.

iii. In the SA re-mails of the Class Notice, it shall note for its own records the date and the address of each re-mailing. Those Class Members who receive a re-mailed Class Notice, whether by skip-trace or forwarded mail, will have sixty (60) days from the postmark an Exclusion Form, or file and serve an objection to the Settlement or dispute the information provided in their Class Notice. The Settlement Administrator shall mark on the envelope whether the Class Notice is a re-mailed notice.

e. Documenting Communications. The SA shall date stamp documents it receives, including Opt-Out Requests, Objections, and any correspondences and documents from Class Members/PAGA Member.

f. Document Posting on Settlement Administrator's Website: The SA shall post the SAC, Settlement Agreement, Class Notice, Orders of Preliminary and Final Approval, Judgment, and other relevant documents on the SA's website for a period of no less than sixty (60) days.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

g. Settlement Administrator Declaration. At least seven (7) days prior to the deadline for filing the motion for final approval, the SA shall prepare, subject to Class Counsel's and Defendants' input and approval, a declaration setting forth the due diligence and proof of mailing of the Class Notices, the results of the SA's mailings, including tracing and re-mailing efforts, and the Class Members'/PAGA Member's responses to those mailing and provide additional information deemed necessary to approve the settlement.

h. SA Written Reports. Each week during the Exclusion Period, the SA shall provide the Parties with a report listing the number of Class Members that submitted Opt-Out Requests and Objections. Within seven (7) days after the close of the Exclusion Period, the SA will provide a final report listing the number of Class Members who submitted Opt-Out Requests or Objections.

i. SA Calculations of Settlement Payments. Within seven (7) days after resolving all challenges made by Settlement Class Members, and following the Final Approval Order, the SA shall provide to the Parties a report showing its calculation of all Settlement Payments to be made to Settlement Class Members and PAGA Members. After receiving the SA's report, Class Counsel and Defendant's counsel shall review the same to determine if the calculation of payments to Settlement Class Members/PAGA Members is consistent with this Agreement, and shall notify the SA if either counsel does not believe the calculation is consistent with the Agreement. After receipt of comments from counsel, the SA shall finalize its calculation of Settlement Payments and PAGA Payments, at least five (5) days prior to the distribution of such payments, and shall provide Class Counsel and Defendant's Counsel with a final report listing the amount of all payments to be made to each Settlement Class Member from the NSA and listing the amount of all payments to be made to each PAGA Member from the amount allocated for PAGA Payments. The SA will also provide information that is requested and approved by both Parties regarding its duties and other aspects of the Settlement and that is necessary to carry out the terms of the Settlement.

60. Requirements for Recovery of Settlement Payments.

a. Class Members. No claim form is necessary to participate in the Settlement. Unless a Class Member submits a valid and timely Opt-Out Request (as described in

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

Paragraphs 14 and 57d), a Class Member will be a Settlement Class Member, bound by the Judgment, and will receive a payment from the NSA. All Class Members except for those who timely and validly opt-out of the Settlement shall be bound by the release of Released Claims in this Agreement. All PAGA Members, including any who opt-out of the Class Settlement, shall be bound by the release of the Settled PAGA Claims and shall be barred from seeking any action for civil penalties for Released PAGA Claims in this Agreement. At Defendant's option, checks in payment of amounts due to Settlement Class Members under the Settlement may contain a brief statement of waiver of Released Claims and/or Released PAGA Claims as part of the endorsement language.

b. Late Submissions. The SA shall not accept as valid any Opt-Out Request postmarked after the end of the Exclusion Period, as extended for remailings, absent agreement from the Parties or order of the Court. It shall be presumed that, if an Opt-Out Request is not postmarked on or before the last day of the Exclusion Period, the Class Member did not return the Opt-Out Request in a timely manner.

c. Challenges. Class Members will have the right to challenge the number of Workweeks Worked allocated to them. The following challenge procedure will be established for the Class Member to dispute information on which his/her payment amount is based: Challenges to the number of Workweeks Worked shall be sent directly to the SA at the address indicated on the Class Notice. A Class Member challenging the number of Workweeks Worked identified may also submit documentary evidence in order to prove the claimed number of Workweeks Worked during the Class Period. Defendant shall have the right to respond to the challenge by any Settlement Class Member. No challenge to the number of Workweeks Worked will be accepted unless sent by U.S. mail within sixty (60) days from the initial mailing of the Class Notice by the SA, with proof of date of submission to be the postmark date unless ordered by the Court. Additional time may be provided to a Class Member only upon a showing of good cause and within an amount of time determined by the SA that will not delay the distribution of Settlement Payments to other Class Members/PAGA Members and in no event beyond the date of filing of the motion for final approval. The SA will inform Class Counsel and Defendants' counsel in writing of any timely filed challenges and will preliminarily determine all such disputes after consulting with the Parties regarding the number of

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

Workweeks Worked. If each of the Parties does not agree with the SA's preliminary determination, the dispute will be submitted to the Court for a decision, and the Court's determination shall be final and binding without a right of appeal.

d. Opt-Out Procedure. Unless a Class Member timely opts out of the Settlement described in this Agreement, he/she shall be bound by the terms and conditions of this Agreement, and shall also be bound by the Final Judgment. A Class Member will not be entitled to opt-out of the Settlement established by this Agreement unless he or she submits to the SA a request or notice of opting out via U.S. mail postmarked on or before the expiration of the Exclusion Period. The request must be in writing on an Opt-Out Request and include the Class Member's name, address, date, signature, to the notice that indicates he or she "opts out" of the Settlement. Opt-Out Requests do not apply to the Released PAGA Claims and will not exclude PAGA Members from the release of Released PAGA Claims.

i. Upon receipt of any Opt-Out Request within the Exclusion Period, the SA shall review the request to verify the information contained therein, and confirm that the request complies with the requirements of this Agreement.

ii. Any Class Member who fails to submit via U.S. mail a timely, complete, and valid Opt-Out Request shall be barred from opting out of this Agreement or the Settlement. The SA shall not have the authority to extend the deadline for Class Members to file a request to opt out of the Settlement absent agreement by both Parties.

iii. Class Members shall be permitted to rescind in writing their request to opt-out by submitting a written rescission statement to the SA no later than the Effective Date, and provided individual Settlement Payments can be recalculated to reflect the rescission.

iv. The Court shall retain sole and exclusive authority to make the final determination regarding the validity and effectiveness of any requests to opt out of the settlement, including but not limited to whether such requests comply with the requirements set forth in the Court-approved notice and applicable law. Defendants alone have the option to withdraw from and void the settlement if the number of opt outs reaches or exceeds five percent (5%) of all Class Members or the number of Workweeks Worked by the opt-outs equals or exceeds three percent (3%) of the total

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

Workweeks worked by the Settlement Class Members. Defendants shall provide written notice of such withdrawal to Class Counsel. In the event that Defendants elect to so withdraw, the withdrawal shall have the same effect as a termination of this Agreement for failure to satisfy a condition of Settlement for affected individuals and amounts, and the Agreement shall become null and void and have no further force or effect in that respect, but shall remain binding and enforceable in all other respects. In the event that Defendants exercise this option, they will be solely responsible for any additional Settlement Administrator's costs related to those affected by this provision.

61. Objections to Settlement. Any Settlement Class Member may object to the Settlement. Any such objection may be submitted to the SA in writing on or before the close of the Exclusion Period or may appear at the Final Approval Hearing object orally. If any Settlement Class Member wish to object in writing, any such written Objection shall include: (1) the full name of the Settlement Class Member; (2) address of the Settlement Class Member; (3) the basis for the objection; and (4) if the Settlement Class Member intends to appear at the Final Approval Hearing. The Parties shall be permitted to file responses to the Objection in addition to any motion for final approval documents. Settlement Class Members may also appear at the Final Approval Hearing to object. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to submit written objections to the Settlement or appeal from the Order granting final approval and/or Final Judgment. Class Counsel shall not represent any Settlement Class Members with respect to any such objections.

62. Final Fairness Hearing, Final Approval and Final Judgment.

a. Entry of Final Judgment. At the Final Approval Hearing, Named Plaintiff will request, and Defendants will concur in said request, that the Court enter a Final Judgment.

b. Motion. Named Plaintiff will draft and file a motion for final approval and for approval of any attorneys' fees and costs and enhancement award in conformity with any requirements from the Court and will take other action to request the entry of Final Judgment in accordance with this Agreement. The motion for final approval and corresponding paperwork will be subject to input and approval from Defendants and the proposed judgment finally approving the Settlement shall be subject to the input from and approval by Defendants, provided that Defendants

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

shall have five (5) days from receipt to provide such input. Defendant will concur in or not object to said request that the Court enter Final Judgment finally approving this Agreement. In conjunction with the motion for final approval, Class Counsel shall file a declaration from the SA confirming that the Class Notice and related forms were mailed to all Class Members as required by this Agreement, as well as any additional information Class Counsel, with the input and approval of Defendants, deems appropriate to provide to the Court.

c. Objections. Before and/or at the Final Fairness Hearing, Named Plaintiff and Defendants, through their counsel of record, may address any written objections from Class Members or any concerns from Class Members who attend the hearing as well as any concerns of the Court.

d. Order. Named Plaintiff will also draft and submit a proposed Order of Final Approval and Final Judgment in the form that is consistent with this Agreement and subject to prior review, revision and approval by Defendant **(See Exhibit C)**. The Parties shall take all reasonable efforts to secure entry of the Order of Final Approval and Final Judgment. If the Court rejects the Agreement, fails to enter the Order of Final Approval, or fails to enter the Final Judgment, even after good faith efforts by the Parties to meet and confer and remedy where agreement can be reached any perceived deficiencies in the Settlement, this Agreement shall be void *ab initio*, and Defendants shall have no obligation to make any payments under the Agreement, except for payments to the SA for services performed up to that time. The Named Plaintiff will submit a proposed Order of Final Approval subject to the review and approval of Defendants that will contain provisions:

i. Wherein the Court enters Final Judgment, finding that this Agreement and Settlement is fair, just, equitable, reasonable, adequate and in the best interests of the Class and was reached as a result of intensive, serious, and non-collusive arms-length negotiations and was achieved with the aid of an experienced mediator and in good faith as to each Class Member;

ii. Affirms that each side will bear its own costs and fees (including attorneys' fees), except as provided by the Agreement, and that Defendant shall not be required to pay any amounts other than as set forth in the Agreement and the Order of Final Approval, and in no event any amount above the GSA, except for employer-side taxes;

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

iii. That confirms the certification of the Class for purposes of Settlement;

iv. That finds that the Settlement Administration process as carried out afforded adequate protections to Class Members, provided the best notice practicable, and satisfied the requirements of law and due process;

v. That rejects any Objections to the Settlement;

vi. That approves the settlement of PAGA Claims consistent with the Settlement;

vii. That bars each and every Class Member and/or PAGA Member from asserting any Settled Claims and/or Settled PAGA Claims in the future, an expressly references the applicability of the doctrines of res judicata and/or collateral estoppel;

viii. That retains Court jurisdiction after entry of judgment to oversee administration and enforcement of the terms of the Agreement; and

ix. That requires the Parties to carry out the provisions of this Agreement.

63. Post-Final Approval Requirements and Procedures. Following entry of the Court's Order Granting Final Approval of Settlement and Final Judgment, the Parties will act to assure the timely execution and fulfillment of all its provisions, including, but not limited to, the following:

a. Should an appeal be taken from the Final Approval of the Settlement, all Parties will support the Order of Final Approval and Final Judgment on appeal;

b. The Parties will assist the SA as needed or requested in the process of identifying and locating Settlement Class Members entitled to Settlement Payments from the NSA and PAGA Members entitled to PAGA Payments and assuring delivery of such payments;

c. Class Counsel will assist the SA as needed or requested in completing the distribution of any uncashed checks as directed by the Court; and

d. Class Counsel will certify to the Court completion of all payments required to be made by this Settlement Agreement.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

64. Payment of Settlement. Defendant will deposit the Funding Payment into an account established by the SA within 30 days of the Effective Date. The remittance of the Funding Payment to the SA shall constitute full and complete discharge of the entire monetary obligation of Defendant under this Agreement. No Released Party shall have any further monetary obligation or liability to Class Counsel, Named Plaintiff, or Settlement Class Members and/or PAGA Members under this Agreement after receipt by the SA of the Funding Payment.

a. The Parties agree that the Funding Payment will qualify as a settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal Revenue Code of 1986, as amended, and Section 1.468B-1 *et seq.* of the income tax regulations. Furthermore, the SA is hereby designated as the "Administrator" of the qualified Settlement funds for purposes of Section 1.468B-2(k) of the income tax regulations. As such, all employee taxes imposed on the gross income of that settlement fund and any tax-related expenses arising from any income tax returns or other reporting documents that may be required by the Internal Revenue Service or any state or local taxing body will be paid from the Funding Payment by the SA.

b. The distribution of Settlement Payments to Settlement Class Members shall occur no later than the Settlement Proceeds Distribution Deadline. The SA shall be deemed to have timely distributed Settlement Payments if it places said payment in the mail (First-Class U.S.). When the SA receives notice from Settlement Class Members that they have not received such Settlement Payments due to changes of address or other circumstances, the SA shall be deemed to have timely distributed those Settlement Payments if (after satisfying itself that the amounts have not been received or negotiated) it re-mails the payments to the updated addresses or provides for delivery by other reasonable methods requested by such Settlement Class Members, provided that any and all requests for re-mailing shall be actually received and acknowledged by the SA before the 150-day deadline referenced in Paragraphs 62 and 63 or will be deemed ineffective, and have no effect and the original mailed amount shall be deemed timely distribution of the Settlement Payment. If any checks are returned to the SA without a forwarding address the SA shall conduct a skip-trace and re-mail the checks. The SA shall mail all Settlement Payments by the Settlement Proceeds Distribution Deadline. To comply with California Rule of Court 3.771, settlement checks shall include the following language

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

on the check: "A Court has approved settlement of the class action and PAGA representative actions and entered judgment for claims asserted in *Gregory McClendon v. Bernel, Inc. dba VFS Fire & Security Services, et al.,* Orange County Superior Court Case No. 30-2022-01277447-CU-OE-CXC." No person shall have any claim against the SA, Defendants or other Released Parties, Class Counsel, Defendants' counsel, or any other agent designated by Named Plaintiff or Defendants based upon the distribution of Settlement Payments made substantially in accordance with this Agreement or further orders of the Court.

c. The distribution of attorneys' fees, costs, and the Named Plaintiff's enhancement/general release awards shall occur no later than the payment date of the payment under the Settlement Proceeds Distribution Deadline. Under no circumstances shall the foregoing payments be made prior to the distribution of Settlement Payments to Settlement Class Members and PAGA Payments to PAGA Members.

d. Upon Defendant's transfer of the Funding Payment and employer-side taxes to the SA, Defendants and the other Released Parties, and Defendants' counsel shall have no further monetary liability or financial responsibility to Class Counsel or to any vendors or third parties employed by the Named Plaintiff or Class Counsel in connection with the Action.

e. Defendant shall not be obligated to make any payments contemplated by this Agreement unless and until the Court enters the Final Approval Order and Final Judgment, and after the Effective Date of the Agreement, and no amounts will be owed or payable until all timely appeals filed before the Effective Date or other collateral attacks have lapsed or have been favorably resolved in favor of the Settlement. However, Defendants shall be obligated to make payments contemplated by this Agreement if no collateral attacks have been initiated prior to the Effective Date. The Parties agree that only Class Members or PAGA Members have standing to appeal or initiate collateral attacks against the Settlement and that no appeal or collateral attack initiated by a non-Class Member or non-PAGA Member, whether before or after the Effective Date, shall delay Defendants' payment obligations as set forth in this Agreement.

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

65. Settlement Class Members and/or PAGA Members who are sent Settlement Payments shall have one hundred fifty (150) days after mailing by the SA to cash their settlement checks.

66. If such Settlement Class Members and/or PAGA Members do not cash their checks within that period, those checks will become void and a stop payment will be placed on the uncashed checks. Checks that are not cashed within one hundred and fifty (150) days of mailing shall, subject to Court approval, be distributed pursuant to the State Controller Unclaimed Property Fund, or as otherwise directed by California Code of Civil Procedure Section 384 and as ordered by the Court. The Parties agree that if the remaining funds are not able to be distributed to the State Controller Unclaimed Property Fund and if a *cy pres* fund is required, subject to Court instruction, that the SA shall forward the entire amount of any amounts remaining from uncashed checks, plus any interest that has accrued thereon, to the California CASA Association (see https://www.californiacasa.org), unless not accepted by the Court in which case the Parties will meet and confer about an acceptable *cy pres*. In such event, those Settlement Class Members and/or PAGA Members will be deemed to have waived irrevocably any right in or claim to a Settlement Payment and/or PAGA Payment subject to their rights, if any, to recover the Settlement Payments and/or PAGA Payments from the Unclaimed Property Fund if ordered or otherwise will be extinguished. Settlement Class Members and/or PAGA Members who fail to negotiate their check(s) in a timely fashion shall, like all Settlement Class Members who did not validly opt out of the Settlement, remain subject to the terms of the Settlement and the Final Judgment.

67. The SA shall keep Class Counsel and Defendants' counsel apprised of all distributions from the GSA. Upon completion of administration of the Settlement, the SA shall provide written certification of such completion to the Court, Class Counsel and Defendant's Counsel.

68. Binding Effect of Agreement on Settlement Class Members and PAGA Members. Subject to final Court approval, all Settlement Class Members and PAGA Members shall be bound by this Agreement, and Final Judgment shall be entered in the Action. In addition, unless the Class Member opts out of the Settlement described in this Agreement, he/she shall be bound by the Court's Order of Final Approval and Final Judgment, and PAGA Members shall be bound by the

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

Court's Order of Final Approval and Final Judgment regardless of whether they opt-out of the Class Settlement. As set forth more fully in Paragraph 69, if the Court does not enter an Order of Final Approval and Final Judgment granting Final Approval of the Settlement, which becomes final, the Settlement shall become null and void, and its terms and all documents setting out its terms shall be inadmissible in further litigation of this Action or any other case, except that the Parties must work in good faith to submit any additional or supplemental documentation to the Court and file any additional or supplemental motions as may be reasonably necessary to secure the Final Approval of the Settlement.

69. Non-Interference with Opt-Out Procedure. The Parties and their counsel agree that they shall not seek to solicit or otherwise encourage Class Members to submit Opt-Out Requests or objections to the Settlement or to appeal from the Final Judgment.

70. Waiver of Appeal. Subject to preliminary and Final Approval of this Settlement, all Class Members, except those Class Members who make timely and valid objections pursuant to the terms of this Agreement, expressly waive the right to appeal.

71. Preliminary Timeline for Completion of Settlement. The preliminary schedule for notice, approval, and payment procedures carrying out this Settlement is set forth in the subsections below. This schedule may be modified depending on whether and when the Court grants necessary approvals and orders notice to the Class and PAGA Members, and sets further hearings. In the event of such modification, the Parties shall cooperate in order to complete the Settlement procedures as expeditiously as reasonably practicable.

a. Preliminary Approval Hearing as permitted by the Court;

b. Defendants to provide information described in Paragraph 55b (name, address, workweeks, etc.) no later than thirty (30) days after filing of the Preliminary Approval Order;

c. The SA to mail the Class Notice by U.S. First Class mail to Class Members and PAGA Members by approximately fourteen (14) days after receipt from Defendant of the information described in the preceding subparagraph;

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

d. The SA to conduct trace/search efforts and send a follow up mailing, no later than ten (10) days after initial mailing, to individuals whose Class Notice was returned as undeliverable or whose listed address is found to be inaccurate or outdated;

e. Opt-Out Requests and Objections to the Settlement must be postmarked no later than sixty (60) days after the date of initial mailing of the Class Notice;

f. The SA will provide to the Parties, and to the Court as directed by the Parties, information regarding Opt-Out Requests and written objections or statements of intention to object to the Settlement received from Class Members within seven (7) days of the close of the Exclusion Period;

g. Class Counsel will file a timely motion for final approval of the Settlement and a separate application for award of attorneys' fees and costs and an enhancement award to the Named Plaintiff by the date set by the Court, or if no date is set, at least sixteen (16) court days prior to the scheduled Final Approval Hearing date;

h. The Parties will request a Final Approval Hearing before the Court within a reasonable time after the close of the Exclusion Period, or as soon thereafter as the Court will hear the Motion for Final Approval. Within seven (30) days after entry of the Final Approval Order and Judgment Defendant shall remit the Funding Payment to the SA.

i. Settlement Payments to Settlement Class Members, including the Named Plaintiff, and payments to Class Counsel for litigation costs and expenses and awarded attorneys' fees, and the enhancement award to Named Plaintiff, and PAGA Payments to the LWDA and PAGA Members shall be made by the Settlement Proceeds Distribution Deadlines by mailing of checks by First Class U.S. mail or by wire (as to Class Counsel's payments only).

72. Automatic Voiding of Agreement if Settlement Not Finalized. If for any reason the Effective Date does not occur, the Settlement shall be null and void and the orders, judgment, and dismissal to be entered pursuant to this Agreement shall be vacated; and the Parties will be returned to the status quo prior to entering this Agreement with respect to the Action, as if the Parties had never entered into this Agreement. In addition, in such event, the Agreement and all negotiations, court orders and proceedings relating thereto shall be without prejudice to the rights of any and all Parties

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

hereto, and evidence relating to the Agreement and all negotiations shall not be admissible or discoverable in the Action or otherwise in any other proceeding.

73. No Injunctive Relief. The Parties agree that the Settlement does not include injunctive relief against Defendants or other Released Parties.

74. Confidentiality and Non-Disparagement.

a. Parties and their counsel will keep the Settlement confidential, through the Court's order granting the Parties' Motion for Preliminary Approval, but the Parties will be able to disclose to the Court, when and as necessary before preliminary approval, that they have reached an agreement in principle, subject to completion of a final Agreement and Court approval.

b. Following the Court's order granting the Parties' Motion for Preliminary Approval, the Parties and their counsel agree to make no comments to the media or otherwise publicize the terms of the settlement on any social media or websites, except that Class Counsel may post on its firm website: "The Firm settled a class action with a California company for $625,000." This shall not restrict Class Counsel from responding to inquires posed by Class Members. Further, Class Counsel may include the case name, number, and settlement information in declarations setting out their qualifications as class counsel.

c. Named Plaintiff and Class Counsel agree to maintain the confidentiality of any documents produced, formally or informally, during the course of the Action. Named Plaintiff and Class Counsel agree to return to Defendants' counsel or destroy, at their option, any information designated as confidential during the course of the Action, including but not limited to any information and/or documents provided to Class Counsel for purposes of mediation.

d. Defendant shall direct all inquiries by Class Members and/or PAGA Members to the SA, which shall provide general information about the lawsuit, including responding to questions about the lawsuit, by providing neutral information about the agreement consistent with the Agreement.

e. Defendant agrees it will adopt a neutral reporting policy regarding any future employment inquiries related to Named Plaintiff. Thus, in the event that any potential or future employers should inquire regarding Defendant's employment of Named Plaintiff, they will be

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

informed only of Named Plaintiff' dates of employment with Defendant's and job title(s) during their employment with Defendant.

f. As permitted by law, Named Plaintiff agrees that he shall make no negative or derogatory statements about Defendant, or its products or services or actions towards him or others, its employees, officers, or owners, or conduct to any third person or entity, unless compelled to do so by law or required for purposes of the settlement. In the event that Named Plaintiff is subpoenaed to testify in any proceeding against Defendant or any of the other Released Parties, Named Plaintiff agrees to advise Defendant and its counsel as soon as reasonably possible in advance of the testimony date to allow Defendant a reasonable opportunity to seek appropriate relief. If prompted by anyone to discuss any dispute he had with Defendants, Named Plaintiff may simply state that "the matter has been resolved."

75. Invalidation of Agreement for Failure to Satisfy Conditions. The terms and provisions in ¶¶ 1 through 38 and 45 through 86 of this Agreement are not mere recitals, but are deemed to constitute contractual terms. The Court may allocate less to the Named Plaintiff, Class Counsel, and/or the LWDA than indicated in Paragraph 51 without impacting the validity and enforceability of the Agreement. The Court may allocate less to the SA than indicated in Paragraph 51 provided the actual amount spent by the SA is less than the maximum set forth in that Paragraph. Without limiting the generality of the foregoing, if this Agreement is terminated for failure to satisfy any material terms or material conditions of this Agreement or grounds for termination provided in this Agreement:

a. Defendants shall not be obligated to create or maintain any type of settlement fund, and shall not be obligated to make any Settlement Payment to any Class Member, PAGA Member and/or any payment to Class Counsel or to the Named Plaintiff;

b. The Agreement and all negotiations, Court orders and proceedings relating thereto shall be without prejudice to the pre-existing rights of the Named Plaintiff, PAGA Members, Class Members, and Defendant, each of whom shall be restored to their respective positions existing prior to the execution of this Agreement, and evidence relating to the Agreement and all negotiations shall not be discoverable or admissible in the Action or any other litigation;

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

c. Defendants will not have waived, and instead expressly reserves, its right to challenge the continuing propriety of class certification for any purpose; and

d. To the extent one exists, the Preliminary Approval Order shall be vacated in its entirety and neither this Agreement, the Preliminary Approval Order, nor any other document in any way relating to any of the foregoing, shall be relied upon, referred to or used in any way for any purpose in connection with any further proceedings in this Action or any related action, including class certification proceedings.

e. In the event Defendants fail to timely make the entire Funding Payment to the SA as required in this Agreement, named Plaintiff may declare the entire unpaid balance immediately due and payable to the SA, with interest accruing thereon, and may proceed to enforce all rights and remedies under law or equity under this Agreement or any collateral agreement referenced herein.

76. Notices. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered by First-Class U.S. mail to the attorneys listed in the caption above and the SA, with additional copies to be sent via electronic mail.

77. Modification in Writing. This Agreement may be altered, amended, modified or waived, in whole or in part, only in a writing signed by counsel for the Parties and approved by the Court, and supersedes any memorandum of understandings or prior agreement(s). This Agreement may not be amended, altered, modified or waived, in whole or in part, orally. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated.

78. Ongoing Cooperation. Named Plaintiff and Defendants, and each of their respective counsel, shall cooperate in good faith to execute all documents and perform all acts necessary and proper to effectuate and implement the terms of this Agreement, including but not limited to drafting and submitting the motions for Preliminary and Final Approval, and defending the Agreement and Final Judgment against objections and appeals. Named Plaintiff shall, as necessary, properly and completely take all steps, including but not limited to submitting any required documents

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

to the LWDA and take any other actions necessary to resolve the Released PAGA Claims pursuant to this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court or otherwise, to effectuate this Agreement and the terms set forth herein.

79. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

80. Binding on Successors. This Agreement shall be binding and shall inure to the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs and legal representatives, including the Released Parties.

81. Entire Agreement. This Agreement constitutes the full, complete and entire understanding, agreement and arrangement between Named Plaintiff and the Class Members/PAGA Members on the one hand, and Defendants on the other hand, with respect to the Settlement of the Action and the Released Claims and Released PAGA Claims against the Released Parties, including Defendant. This Agreement supersedes any and all prior oral or written understandings, agreements and arrangements between the Parties with respect to the Settlement of the Action and the Released Claims against the Released Parties. Except those set forth and included expressly in this Agreement, there are no other agreements, covenants, promises, representations or arrangements between the Parties with respect to the Settlement of the Action and the Released Claims/Released PAGA Claims against the Released Parties. The Parties explicitly recognize California Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is to be construed according to its terms, and may not be varied or contradicted by extrinsic evidence, and agree that no such extrinsic oral or written representations or terms shall modify, vary, or contradict the terms of this Agreement.

82. Execution in Counterparts. This Agreement may be signed in one or more counterparts. A facsimile, scanned shall be treated as an original signature for all purposes. All executed copies of this Agreement, and photocopies thereof (including facsimile or email copies of

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original. The Parties shall execute by hand with "wet" signatures.

83. Captions. The captions and section numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the provisions of this Agreement.

84. Governing Law. This Agreement shall be interpreted, construed, enforced, and administered in accordance with the laws of the State of California, without regard to conflict of law rules.

85. Reservation of Jurisdiction. Notwithstanding the entry and filing of Final Judgment, the Court shall retain jurisdiction under Section 664.6 of the Code of Civil Procedure and California Rule of Court 3.769 for purposes of interpreting and enforcing the terms of this Agreement.

86. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

87. Warranties and Representations. With respect to themselves, each of the Parties to this Agreement and/or their agents or counsel represent, covenant and warrant that (a) they have full power and authority to enter into and consummate all transactions contemplated by this Agreement and have duly authorized the execution, delivery and performance of this Agreement, and (b) the person executing this Agreement has the full right, power and authority to enter into this Agreement on behalf of the Party for whom he/she has executed this Agreement, and the full right, power and authority to execute any and all necessary instruments in connection herewith, and to fully bind such Party to the terms and obligations of this Agreement, except that the Parties understand that the Named Plaintiff and Class Counsel only have the power to bind Class Members and PAGA Members to the extent this Agreement is approved by the Court.

88. Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

that this Agreement has been executed with the consent and advice of counsel. Further, the Named Plaintiff and Class Counsel warrant and represent that there are no liens on the Agreement, and that after entry by the Court of the Final Judgment, Defendant, through the SA, may distribute funds to Settlement Class Members, PAGA Members, Class Counsel, and the Named Plaintiff as provided by this Agreement.

89. Authorization by Named Plaintiff. Named Plaintiff authorize Class Counsel to sign this Agreement and further agree not to request to be excluded from the Class and not to object to any terms of this Agreement. Any such Opt-Out Request or objection by Named Plaintiff shall therefore be void and of no force or effect.

90. No Impact on Arbitration Agreements. The submission of Released Claims and Released PAGA Claims to the Court is solely for the purposes settlement and shall not be deemed as an invalidation, waiver, voidance of the arbitration agreements, and shall have no negative impact on their alleged continuing validity. By failing to request exclusion with an opt-out request, any Settlement Class Member will be deemed to agree to the provisions of this Paragraph.

// // //

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

IT IS SO AGREED:

Dated: 5/01/2025, 2025

GREGORY MCCLENDON
Named Plaintiff/Class and PAGA
Representative/Aggrieved Plaintiff

Dated: _____, 2025

BERNEL, INC.

By:
Its:

Dated: _____, 2025

JOSEPH BUVEL, Defendant

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

IT IS SO AGREED:

Dated: 5/01/2025, 2025

GREGORY MCCLENDON
Named Plaintiff/Class and PAGA
Representative/Aggrieved Plaintiff

Dated: _____, 2025

BERNEL, INC.

By:
Its:

Dated: 05/08/25, 2025

Joseph Buvel
Joseph Buvel (May 8, 2025 12:48 CDT)

JOSEPH BUVEL, Defendant

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671

IT IS SO AGREED:

Dated: 5/01/2025, 2025

GREGORY MCCLENDON
Named Plaintiff/Class and PAGA
Representative/Aggrieved Plaintiff

Dated: 05/08/25, 2025

BERNEL, INC.

Marc Wasserman
Marc Wasserman (May 8, 2025 13:05 CDT)

By: Marc Wasserman
Its: CFO

Dated: _____, 2025

JOSEPH BUVEL, Defendant

Doc ID: ec906f64ae4ef970ee17d9c294584f166b4d4671