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limited liability company; TODD PIPE HOLDINGS, INC.,
a California corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

RENE HERNANDEZ, on behalf of himself
and all others similarly situated and aggrieved,

Plaintiff,

v.

TODD PIPE & SUPPLY, LLC; a terminated
California limited liability company; TODD
PIPE HOLDINGS, INC., a California
corporation; MORSCO SUPPLY, LLC, a
Texas limited liability company; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 22STCV30190

Assigned to the Hon. Stuart M. Rice in
Dept. 1

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: September 15, 2022
Trial Date: None Set

This Class and PAGA Settlement Agreement (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between Plaintiff Rene Hernandez (“Plaintiff Hernandez”), (“Plaintiff”), on one hand, and defendants Todd Pipe & Supply, LLC, Todd Pipe Holdings, Inc. (“Defendants”), on the other hand. The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS

1.1. “Action” means the Plaintiff Rene Hernandez’s lawsuit alleging wage and hour violations against Defendants, captioned *Rene Hernandez v. Todd Pipe & Supply, LLC, et al.* Case No. 22STCV30190 (“Class Action”), initiated on September 15, 2022, and pending in Superior Court of the State of California, County of Los Angeles.

1.2. “Administrator” means ILYM Group, Inc. the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. “Aggrieved Employees” means all persons currently or formerly employed by Defendants as hourly-paid, non-exempt employees in the State of California at any time during the PAGA Period.

1.5. “Class” or “Settlement Class” means all persons currently or formerly employed by Defendants as hourly-paid, non-exempt employees in the State of California at any time during the Class Period.

1.6. “Class Counsel” means David D. Bibiyan, Jeffrey D. Klein, and Vedang J. Patel of Bibiyan Law Group, P.C.

1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.8. “Class Data” means Class Member identifying information in Defendants’ custody,

possession, or control, including the Class Member's (1) name; (2) last known address; (3) last known telephone number(s); (4) Social Security Number(s); (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)), (6) Workweeks worked by the Class Member during the Class Period, and (7) the pay periods worked by the Class Member during the PAGA Period.

1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

1.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. "Class Period" means the period from September 15, 2018 through December 31, 2021.

1.13. "Class Representatives" means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative, namely Rene Hernandez.

1.14. "Class Representative Service Payment" means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of Los Angeles.

1.16. "Defendants" means each or any named Defendants, to wit: Todd Pipe & Supply, LLC and Todd Pipe Holdings, Inc.

1.17. "Defense Counsel" means Matthew Golper, Janet Soultanian and Keith Rossman of Ballard Rosenberg Golper & Savitt, LLP.

1.18. "Effective Date" means the date when all of the following events have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the

Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur .

1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.21. "Final Judgment" means the Judgment entered by the Court based upon the Final Approval.

1.22. "Gross Settlement Amount" means \$745,000.00 (Seven Hundred Forty-Five Thousand Dollars and Zero Cents), which is the total amount Defendants agrees to pay under the Settlement, unless increased pursuant to Paragraph 8.1 below, and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and Administrator's Expenses.

1.23. "Individual Class Payment" means a Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. "Individual PAGA Payment" means an Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.25. "Judgment" means the judgment entered by the Court based upon Final Approval.

1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

1.31. “PAGA Period” means the period from September 15, 2021 through the end of the Class Period.

1.32. “PAGA” means the Private Attorneys’ General Act (Labor Code §§ 2698. *et seq.*).

1.33. “PAGA Notice” means Plaintiff’s September 15, 2022 letter to Defendants and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties (\$40,000.00) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$10,000.00) and 75% to the LWDA (\$30,000.00) in settlement of PAGA claims.

1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. “Plaintiff” or “Plaintiffs” means Rene Hernandez.

1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval and Approval of PAGA Settlement to be mutually agreed upon by the Parties prior to Plaintiff’s presentation of the same to the Court.

1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.4 below.

1.41. "Released Parties" means: Defendants and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, parents and affiliates.

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline has expired.

1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.45. "Workweek" means any week during which a Class Member worked for Defendants for at least one day in a non-exempt, hourly position during the Class Period in California, based on dates actually worked as provided by Defendants to the settlement administrator.

2. RECITALS

2.1. On September 15, 2022 Plaintiff filed with the Labor and Workforce Development Agency ("LWDA") and served on Defendants a notice under Labor Code section 2699.3 (the "PAGA Notice") stating that he intended to serve as a proxy of the LWDA to recover civil penalties for Aggrieved Employees for various Labor Code violations.

2.2. On September 15, 2022, Plaintiff commenced this Action by filing a complaint against Defendants alleging: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof; (5) failure to pay all wages due upon separation; (6) failure to provide accurate wage statements; (7) failure to indemnify; (8) engaging in unfair competition.

(the “Class Action”).

2.3. On November 21, 2022 Plaintiff Rene Hernandez commenced a separate representative action against Defendants captioned *Rene Hernandez v. Todd Pipe & Supply, LLC, et al.* Case No. 22STCV36825 for violations of the Labor Code for which Plaintiff sought PAGA penalties. (the “PAGA Action”).

2.4. Defendants deny the allegations in the Class Action and the PAGA Action, denies any failure to comply with the laws identified in each complaint, and denies any and all liability for the causes of action alleged in each complaint.

2.5. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.

2.6. On November 9, 2023, the Parties participated in an all-day mediation presided over by Deborah Saxe, Esq., which led to this Agreement to settle the Action.

2.7. Prior to mediation, Plaintiff obtained, through informal discovery: (1) time and payroll records for approximately a 30% sampling of the 400 Class Members; (2) class data points, including rates of pay, and hire and termination dates; (3) all policy documents, including applicable employment handbooks; (4) all documents concerning Plaintiff which were available to Defendants. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal. App. 4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-130 (Dunk/Kullar).

2.8. As part of this Settlement Agreement, the Parties agree to stipulate that Plaintiff Hernandez will dismiss the PAGA Action without prejudice and will file a First Amended Complaint in the Class Action to include the PAGA claims.

2.9. The Court has not granted class certification.

2.10. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

3.1. Gross Settlement Amount. Defendants promise to pay \$745,000.00 as the Gross

1 Settlement Amount, unless escalated pursuant to Paragraph 8.1 of this Agreement, and to
2 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual
3 Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any
4 payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator
5 will disburse the entire Gross Settlement Amount without asking or requiring Participating Class
6 Members or Aggrieved Employees to submit any claim as a condition of payment. None of the
7 Gross Settlement Amount will revert to Defendants.

8 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
9 the following payments from the Gross Settlement Amount, in the amounts specified by the Court
10 in the Final Approval:

11 3.2.1. To Plaintiff: Service Payments to Class Representative or named Plaintiff of not
12 more than \$7,500.00 to Plaintiff Rene Hernandez in addition to any Individual Class
13 Payment and any Individual PAGA Payment the Class Representatives or named
14 Plaintiff are entitled to receive as Participating Class Members. Defendants will not
15 oppose Plaintiff's request for a Class Representative Service Payment that does not
16 exceed this amount. As part of the motion for Class Counsel Fees Payment and Class
17 Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
18 Representative Service Payments prior to the Final Approval Hearing. If the Court
19 approves Class Representative Service Payments less than the amount requested, the
20 Administrator will retain the remainder in the Net Settlement Amount. The
21 Administrator will pay the Class Representative Service Payments using IRS Form
22 1099-MISC. Plaintiff assume full responsibility and liability for employee taxes owed
23 on the Class Representative Service Payments.

24 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which,
25 unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to
26 be \$260,750.00 and a Class Counsel Litigation Expenses Payment of not more than
27 \$25,000.00. Defendants will not oppose requests for these payments provided they do
28 not exceed these amounts. Plaintiff and/or Class Counsel will endeavor to file a motion

for Class Counsel Fees Payment and Class Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099-MISC Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from Defendants for such work unless, Defendants materially breaches this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$8,550.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$8,550.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating

Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099-MISC Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$40,000.00 to be paid from the Gross Settlement Amount, with 75% (\$30,000.00) allocated to the LWDA PAGA Payment and 25% (\$10,000.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$10,000.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA

1 Payments on IRS 1099-MISC Forms.

2 **4. SETTLEMENT FUNDING AND PAYMENTS**

3 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records
4 to date, Defendants estimate there are 400 Class Members who collectively worked a total of
5 33,103 Workweeks, and 219 Aggrieved Employees who worked a total of 10,895 PAGA Pay
6 Periods.

7 4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the
8 Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the
9 form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the
10 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
11 of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator
12 employees who need access to the Class Data to effect and perform under this Agreement.
13 Defendants has a continuing duty to immediately notify Class Counsel if it discovers that the
14 Class Data omitted class member identifying information and to provide corrected or updated
15 Class Data as soon as reasonably feasible. Without any extension of the deadline by which
16 Defendants must send the Class Data to the Administrator, the Parties and their counsel will
17 expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related
18 to missing or omitted Class Data.

19 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement
20 Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by
21 transmitting the funds to the Administrator no later than 14 calendar days after the Effective Date.

22 4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendants funds the
23 Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments,
24 all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses
25 Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and
26 the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the
27 Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall
28 not precede disbursement of Individual Class Payments and the Individual PAGA Payments.

1 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
2 Individual PAGA Payments and send them to the Class Members via First Class U.S.
3 Mail, postage prepaid. The face of each check shall prominently state the date (not less
4 than 180 days after the date of mailing) when the check will be voided. The
5 Administrator will cancel all checks not cashed by the void date. The Administrator will
6 send checks for Individual Settlement Payments to all Participating Class Members
7 (including those for whom Class Notice was returned undelivered). The Administrator
8 will send checks for Individual PAGA Payments to all Aggrieved Employees including
9 Non-Participating Class Members who qualify as Aggrieved Employees (including those
10 for whom Class Notice was returned undelivered). The Administrator may send
11 Participating Class Members a single check combining the Individual Class Payment
12 and the Individual PAGA Payment. Before mailing any checks, the Settlement
13 Administrator must update the recipients' mailing addresses using the National Change
14 of Address Database.

15 4.4.2. The Administrator must conduct a Class Member Address Search for all other
16 Class Members whose checks are returned undelivered without USPS forwarding
17 address. Within 7 days of receiving a returned check the Administrator must re-mail
18 checks to the USPS forwarding address provided or to an address ascertained through
19 the Class Member Address Search. The Administrator need not take further steps to
20 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
21 The Administrator shall promptly send a replacement check to any Class Member whose
22 original check was lost or misplaced, requested by the Class Member prior to the void
23 date.

24 4.4.3. For any Class Member whose Individual Class Payment check or Individual
25 PAGA Payment check is uncashed and cancelled after the void date: checks and funds
26 associated shall be considered unpaid, unclaimed or abandoned cash residue pursuant to
27 Code of Civil Procedure section 384 ("Unpaid Residue"). The Unpaid Residue plus
28 accrued interest, if any, as provided in Code of Civil Procedure section 384, shall be

transmitted as follows: to Legal Aid at Work, 180 Montgomery St., Suite 600, San Francisco, California 94104 for use in any county in California in need (the “Cy Pres Recipient”). The Settlement Administrator shall prepare a report regarding the distribution plan pursuant to Code of Civil Procedure section 384 and the report shall be presented to the Court by Class Counsel along with a proposed amended judgment that is consistent with the provisions of Code of Civil Procedure section 384.

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASE OF CLAIMS

Effective upon entry of Judgment, the Order granting Final Approval of this Settlement, and on the date when Defendants fully fund the entire Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors and assigns generally release and discharge Released Parties from all claims, transactions or occurrences including, but not limited to: (a) all claims that were or reasonably could have been alleged based on the facts contained in the Class Action Operative Complaint and (b) all PAGA claims that were or reasonably could have been alleged based on facts contained in the PAGA Operative Complaint, Plaintiff’s PAGA Notice, or ascertained during the Action and released under 5.2 and 5.4 below (“Plaintiff’s Release”). Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledge that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now know or believe to be true but agree, nonetheless, that Plaintiff Release shall be and remain effective in all respects, notwithstanding such different

1 or additional facts or Plaintiff's discovery of them.

2 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
3 purposes of Plaintiff's Release only, Plaintiff expressly waives and relinquishes the
4 provisions, rights and benefits, if any, of section 1542 of the California Civil Code, which
5 reads:

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

11
12 5.2. Release by Participating Class Members: For the duration of the Class Period, all
13 Participating Class Members, on behalf of themselves and their respective former and present
14 representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released
15 Parties from all claims, rights, demands, liabilities, and causes of action that were alleged or
16 reasonably could have been alleged based on the facts stated in the Operative Complaint
17 including: (i) failure to pay overtime wages; (ii) failure to pay minimum wages and wages of
18 any type; (iii) failure to provide meal periods or and/or pay meal period premiums; (iv) failure
19 to provide rest periods and/or pay rest period premiums; (v) failure to pay all wages an accrued
20 vacation/paid time off at separation; (vi) failure to issue timely accurate wage statements; (vii)
21 failure to reimburse or indemnify necessary business expenses; and (viii) unfair business
22 practices that could have been premised on the claims, causes of action on legal theories of
23 relief described above or any of the claims, causes of action or legal theories of relief described
24 above or any of the claims, causes of action or legal theories of relief pleaded in the Operative
25 Complaint.

26 5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not
27 release any other claims, including claims for vested benefits, wrongful termination, violation of
28 the Fair Employment and Housing Act, unemployment insurance, disability, social security,

workers' compensation, or claims based on facts occurring outside the Class Period.

5.4. Release by Aggrieved Employees: For the duration of the PAGA Period, all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the PAGA Notice and thereafter alleged in the Operative Complaint, including, claims for PAGA penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 in connection with alleged violations of Labor Code sections Labor Code sections 96, 98.6, 200, 201 201.3, 202, 203, 204, 226, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 1174, 1102.5, 1174, 1194, 1197, 1197.5, 1198.5, 2699, 2802, and 2810.5.

6. MOTION FOR PRELIMINARY APPROVAL

The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. Defendants' Declaration in Support of Preliminary Approval. Within 14 days of full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Defendants shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel filing all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class

1 Data; amounts of insurance coverage for any data breach, defalcation of funds or other
2 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
3 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
4 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve
5 and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members;
6 (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the
7 Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial
8 notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code
9 section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vi) all
10 facts relevant to any actual or potential conflict of interest with Class Members and the
11 Administrator. In their Declarations, Plaintiff and Class Counsel's Declaration shall aver that
12 they are not aware of any other pending matter or action asserting claims that will be extinguished
13 or adversely affected by the Settlement.

14 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
15 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full execution
16 of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and
17 for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel
18 is responsible for delivering the Court's Preliminary Approval to the Administrator.

19 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
20 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
21 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
22 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
23 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
24 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
25 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
26 Court's concerns.

27 7. SETTLEMENT ADMINISTRATION

28 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve

as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

7.4. Notice to Class Members

7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit “A.” The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Members’ addresses using the National Change of Address database.

7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a

forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves from (opt-out of) the Class Settlement must send the Administrator, by fax, email or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it

1 fails to contain all the information specified in the Class Notice. The Administrator shall
2 accept any Request for Exclusion as valid if the Administrator can reasonably ascertain
3 the identity of the person as a Class Member and the Class Member's desire to be
4 excluded. The Administrator's determination shall be final and not appealable or
5 otherwise susceptible to challenge. If the Administrator has reason to question the
6 authenticity of a Request for Exclusion, the Administrator may demand additional proof
7 of the Class Member's identity. The Administrator's determination of authenticity shall
8 be final and not appealable or otherwise susceptible to challenge.

9 7.5.3. Every Class Member who does not submit a timely and valid Request for
10 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
11 to all benefits and bound by all terms and conditions of the Settlement, including the
12 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,
13 regardless of whether the Participating Class Member actually receives the Class Notice
14 or objects to the Settlement.

15 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
16 Non-Participating Class Member and shall not receive an Individual Class Payment or
17 have the right to object to the class action components of the Settlement. Because future
18 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
19 Participating Class Members who are Aggrieved Employees are deemed to release the
20 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
21 PAGA Payment.

22 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the
23 Administrator mails the Class Notice (plus an additional 15 days for Class Members whose Class
24 Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any)
25 allocated to the Class Member in the Class Notice. The Class Member may challenge the
26 allocation by communicating with the Administrator via mail. The Administrator must encourage
27 the challenging Class Member to submit supporting documentation. In the absence of any
28 contrary documentation, the Administrator is entitled to presume that the Workweeks contained

1 in the Class Notice are correct so long as they are consistent with the Class Data. The
2 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
3 Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator
4 shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods
5 to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

6 **7.7. Objections to Settlement**

7 7.7.1. Only Participating Class Members may object to the class action components of
8 the Settlement and/or this Agreement, including contesting the fairness of the
9 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
10 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

11 7.7.2. Participating Class Members may send written objections to the Administrator, by
12 fax, email or mail. In the alternative, Participating Class Members may appear in Court
13 (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
14 Hearing. A Participating Class Member who elects to send a written objection to the
15 Administrator must do so not later than 45 days after the Administrator's mailing of the
16 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
17 mailed).

18 7.7.3. Non-Participating Class Members have no right to object to any of the class action
19 components of the Settlement.

20 **7.8. Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be
21 performed or observed by the Administrator contained in this Agreement or otherwise.

22 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
23 and use an internet website to post information of interest to Class Members, including
24 the date, time and location for the Final Approval Hearing and copies of the Settlement
25 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
26 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
27 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
28 the Final Approval and the Judgment. The Administrator will also maintain and monitor

an email address and a toll-free telephone number to receive Class Member calls and emails.

7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include/provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5. Administrator’s Declaration. Before the date by which Plaintiff are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its

1 due diligence and compliance with all of its obligations under this Agreement, including,
2 but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered,
3 the re-mailing of Class Notices, attempts to locate Class Members, the total number of
4 Requests for Exclusion from Settlement it received (both valid or invalid), the number
5 of written objections and attach the Exclusion List. The Administrator will supplement
6 its declaration as needed or requested by the Parties and/or the Court. Class Counsel is
7 responsible for filing the Administrator's declaration(s) in Court.

8 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
9 disburses all funds in the Gross Settlement Amount, the Administrator will provide Class
10 Counsel and Defense Counsel with a final report detailing its disbursements by employee
11 identification number only of all payments made under this Agreement. At least 7 days
12 before any deadline set by the Court, the Administrator will prepare, and submit to Class
13 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting
14 to its disbursement of all payments required under this Agreement. Class Counsel is
15 responsible for filing the Administrator's declaration in Court.

16 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

17 Based on its records, Defendants estimates that, as of the date of this Settlement
18 Agreement, (1) there are 400 Class Members and 33,103 Total Workweeks during the Class
19 Period and (2) there were 219 Aggrieved Employees who worked 10,895 Pay Periods during the
20 PAGA Period.

21 8.1. Increase in Workweeks. Defendants represent that there are no more than 33,103
22 Workweeks worked by Class Members during the Class Period. If, as of the close of the Class
23 Period, the actual number of Workweeks worked increases by more than 10%, or 3,310
24 Workweeks, then the Gross Settlement Amount shall be increased by the Workweeks in excess
25 of 36,413 (33,103 Workweeks + 3,310 Workweeks) multiplied by the Workweek Value. The
26 Workweek Value shall be calculated by dividing the Gross Settlement Amount by 33,103
27 Workweeks. The Parties agree that the Workweek Value amounts to \$22.50 per Workweek
28 (\$745,000 / 33,103 Workweeks). Thus, for example, should there be 36,500.00 Workweeks

during the Class Period, then the Gross Settlement Amount shall be increased by \$76,433.00 [(36,500 Workweeks – 33,103 Workweeks) x \$22.50].

9. DEFENDANTS' RIGHT TO WITHDRAW

9.1. Defendants' Withdrawal From Settlement. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 7% of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses through the date of withdrawal. Defendants must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL

Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2. Duty to Cooperate. If the Court does not grant Final Approval, conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members) or if the Settlement is terminated by either Party in accordance with this Settlement Agreement, the Parties will request that the Court reopens the proceedings within 14 days. Notwithstanding the foregoing, the Parties agree to expeditiously work together in good

1 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
2 Approval. The Court's decision to award less than the amounts requested for the Class
3 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
4 Expenses Payment and Administrator Expenses Payment shall not constitute a material
5 modification to the Agreement within the meaning of this paragraph.

6 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
7 Court will retain jurisdiction over the Parties, Action and the Settlement solely for purposes of (i)
8 enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and
9 (iii) addressing such post-Judgment matters as are permitted by law.

10 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
11 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
12 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
13 respective counsel, and all Participating Class Members who did not object to the Settlement as
14 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
15 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
16 for new trial, extraordinary writs and appeals. The waiver of appeal does not include any waiver
17 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
18 Parties' obligations to perform under this Agreement will be suspended until such time as the
19 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
20 the amount of the Net Settlement Amount.

21 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
22 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
23 modification of this Agreement (including, but not limited to, the scope of release to be granted
24 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
25 expeditiously work together in good faith to address the appellate court's concerns and to obtain
26 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
27 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
28 the Court's award of the Class Representative Service Payment or any payments to Class Counsel

shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT

If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

12. ADDITIONAL PROVISIONS

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserves the right to contest certification of any class for any reasons, and Defendants reserves all available defenses to the claims in the Action, and Plaintiff reserve the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement). Payment of wages does not extend or alter the Class Members' or Aggrieved Employees' period of employment for any purpose.

12.2. Confidentiality. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report

1 income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in
2 response to an inquiry or subpoena issued by a state or federal government agency. Each Party
3 agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena
4 seeking such information. Plaintiff, Class Counsel, Defendants and Defense Counsel separately
5 agree not to, directly or indirectly, initiate any conversation or other communication, before the
6 filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or
7 the matters giving rise to this Agreement except to respond only that “the matter was resolved,”
8 or words to that effect. This paragraph does not restrict Class Counsel’s communications with
9 Class Members in accordance with Class Counsel’s ethical obligations owed to Class Member.

10 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and
11 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
12 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability
13 to communicate with Class Members in accordance with Class Counsel’s ethical obligations
14 owed to Class Members.

15 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
16 together with its attached exhibits shall constitute the entire agreement between the Parties
17 relating to the Settlement, superseding any and all oral representations, warranties, covenants or
18 inducements made to or by any Party.

19 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
20 represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate
21 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
22 its terms and to execute any other documents reasonably required to effectuate the terms of this
23 Agreement including any amendments to this Agreement.

24 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
25 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
26 Settlement Agreement, submitting supplemental evidence, and supplementing points and
27 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
28 or content of any document necessary to implement the Settlement or on any modification of the

1 Agreement that may become necessary to implement the Settlement, the Parties will seek the
2 assistance of a mediator and/or the Court for resolution.

3 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not
4 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer or
5 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
6 action or right released and discharged by the Party in this Settlement.

7 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are
8 providing any advice regarding taxes or taxability nor shall anything in this Settlement be relied
9 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
10 Part 10, as amended) or otherwise.

11 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
12 modified, changed, or waived only by an express written instrument signed by all Parties or their
13 representatives, and approved by the Court.

14 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
15 the benefit of, the successors of each of the Parties.

16 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
17 governed by and interpreted according to the internal laws of the State of California, without
18 regard to conflict of law principles.

19 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
20 this Agreement. This Agreement will not be construed against any Party on the basis that the
21 Party was the drafter or participated in the drafting.

22 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
23 during Action and in this Agreement relating to the confidentiality of information shall survive
24 the execution of this Agreement.

25 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.
26 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by
27 Defendants in connection with the mediation, other settlement negotiations or in connection with
28 the Settlement, may be used only with respect to this Settlement and no other purpose, and may

1 not be used in any way that violates any existing contractual agreement, statute, or rule of court.

2 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
3 inserted for convenience of reference only and does not constitute a part of this Agreement.

4 12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be
5 to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend
6 or federal legal holiday, such date or deadline shall be on the first business day thereafter.

7 12.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
8 by facsimile, electronically (i.e., DocuSign) or email, which, for purposes of this Agreement, shall
9 be accepted as an original. All executed counterparts and each of them will be deemed to be one
10 and the same instrument if counsel for the Parties will exchange between themselves signed
11 counterparts. Any executed counterpart will be admissible in evidence to prove the existence and
12 contents of this Agreement.

13 12.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
14 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
15 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the
16 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
17 process.

18 12.19. Severability. In the event that one or more of the provisions contained in this Agreement
19 shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity,
20 illegality or unenforceability shall in no way effect any other provision if Defendants’ Counsel
21 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
22 to proceed as if such invalid, illegal or unenforceable provision had never been included in this
23 Agreement.

24
25
26 ///

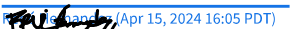
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1 **IT IS SO AGREED:**

2
3 PLAINTIFF

DEFENDANTS
TODD PIPE & SUPPLY, LLC

4
5 by  (Apr 15, 2024 16:05 PDT)
6 Rene Hernandez

by
its Managing Member

7 DEFENDANTS
8 TODD PIPE HOLDINGS, INC.

9 by
10 its [title]

11 **AGREED AS TO FORM:**

12
13 BIBIYAN LAW GROUP P.C.

BALLARD ROSENBERG GOLPER &
SAVITT LLP

14 *Vedang J. Patel*
15 _____
16 David D. Bibiyan
17 Vedang J. Patel
18 Andrew T. Magaline
Counsel for Plaintiff

Matthew Golper
Janet Soultanian
Keith Rossman
Counsel for Defendants

1 **IT IS SO AGREED:**

2
3 PLAINTIFF

DEFENDANTS
TODD PIPE & SUPPLY, LLC

4
5 by

6 Rene Hernandez

by

Deryl Ward
Deryl Ward (Apr 29, 2024 21:37 CDT)

its

Secretary

7 DEFENDANTS
8 TODD PIPE HOLDINGS, INC.

9 by

Deryl Ward
Deryl Ward (Apr 29, 2024 21:37 CDT)

10 its

Secretary

11 **AGREED AS TO FORM:**

12
13 BIBIYAN LAW GROUP P.C.

BALLARD ROSENBERG GOLPER &
SAVITT LLP

14
15 _____
16 David D. Bibiyan

17 Vedang J. Patel

18 Andrew T. Magaline

Counsel for Plaintiff

Matthew R. Golper

Matthew Golper

Janet Soultanian

Keith Rossman

Counsel for Defendants