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Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO

MICHAEL CONNER, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

RED WING BRANDS OF AMERICA,
INC., a Minnesota corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 22CIV03830

[Assigned for all purposes to the Hon. V. Raymond
Swope, Department 23]

[PROPOSED] ORDER AND JUDGMENT

Date: August 12, 2024
Time: 3:00 P.M.
Dept.: 23

Action Filed: September 20, 2022
Trial Date: Not Set

1 Plaintiff Michael Conner (“Plaintiff”) and Defendant Red Wing Brands of America, Inc.
2 (“Defendant”) (Defendant and Plaintiff are referred to herein as the “Parties”) have entered into
3 the Settlement Agreement (“Settlement Agreement”) to settle the above-captioned action subject
4 to the Court’s approval (the “Settlement”). The Operative Complaint is attached to this Order as
5 **Exhibit A**, and the Settlement Agreement, which includes the Settlement Notice to the Allegedly
6 Aggrieved Employees, is attached hereto as **Exhibit B**.

7 This matter is now before the Court on Plaintiff’s Motion to Approve Settlement
8 Agreement Pursuant to the Private Attorneys General Act. The Court has read, heard, and
9 considered all the pleadings and documents submitted, and the presentations made in connection
10 with the Motion which came on for hearing on August 12, 2024.

11 **NOW THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED:**

12 The Court hereby approves the Parties’ proposed PAGA Settlement and finds that it is
13 fair, adequate, and reasonable. The Court enters FINAL JUDGMENT based on the terms set
14 forth in the Parties’ Settlement. in the Gross Settlement Amount is \$155,000.00. Of this amount,
15 \$51,666.67 is awarded as attorney fees paid to Plaintiff’s Counsel; \$1,977.23 is awarded as costs
16 paid to Plaintiff’s Counsel; \$10,000.00 is awarded to Plaintiff for serving as the PAGA
17 representative and for the release of his individual claims; and \$4,500.00 is awarded as
18 administration costs paid to Phoenix Settlement Administrators, the settlement administrator
19 selected by the Parties. The balance of the Gross Settlement Amount after deducting 1)
20 Settlement Administration Costs (not to exceed \$4,500.00) to be paid to the Settlement
21 Administrator; (2) a Service Payment (not to exceed \$10,000.00) to be paid to Plaintiff; (3) an
22 Attorneys’ Fee Award (not to exceed \$51,666.67) to be paid to Plaintiffs Counsel; (4) an
23 Attorneys’ Costs Award (\$1,977.23) shall be distributed Twenty-Five percent (25%) to the
24 Allegedly Aggrieved Employees and Seventy Five Percent (75%) to the LWDA, as provided by
25 the PAGA.

26 This Judgment incorporates by reference the definitions in the Settlement, and all terms
27 defined therein shall have the same meaning as set forth in the Settlement.

28 This Judgment is entered as part of a Settlement and the Court has made no findings of

1 liability or provided any notice of PAGA or Labor Code violations. Defendant shall comply
2 with the terms of the Settlement and fund the Gross Settlement Amount pursuant to its terms.
3 Thereafter, the Settlement Administrator shall similarly comply with the terms of the Settlement
4 and act accordingly.

5 As a result of the Settlement and this Judgment, Plaintiff, the Allegedly Aggrieved
6 Employees, and the State of California fully and finally release and are barred from prosecuting
7 any of the claims covered by the Released Claims, as defined in the Settlement, against
8 Defendant and the Released Parties.

9 This Judgment is intended to be a final disposition in its entirety of the above captioned
10 action. Without affecting the finality of this judgment in any way, the Court retains jurisdiction
11 of all matters relating to the interpretation, administration, implementation, effectuation, and
12 enforcement of the Settlement pursuant to C.C.P. § 664.6.

13 **IT IS SO ORDERED.**

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15 DATED: _____

16 HON. V. RAYMOND SWOPE
17 SUPERIOR COURT OF CALIFORNIA
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EXHIBIT A

ON 11/28/2022

By /s/ Nesha Gaines
Deputy Clerk

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Attorneys for Plaintiff and the Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

MICHAEL CONNER, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

RED WING BRANDS OF AMERICA,
INC., a Minnesota corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 22-CIV-03830

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT UNDER THE
PRIVATE ATTORNEYS GENERAL ACT OF
2004**

DEMAND OVER \$25,000.00

1 Plaintiff Michael Conner (“Plaintiff”) hereby submits this First Amended Representative
2 Action Complaint (“Complaint”) against Defendant Red Wing Brands of America, Inc.
3 (“Defendant”), and Does 1 through 50 (collectively, “Defendants”), individually, and on behalf
4 of himself and all aggrieved employees of Defendant, for penalties for violations of the
5 California Labor Code as follows:

6 **INTRODUCTION**

7 1. This representative action is within the Court’s jurisdiction under California
8 Labor Code sections 201, 202, 203, 204, 226, 226.7, 246, 512, 2698, *et seq.*, and the applicable
9 Wage Orders of the Industrial Welfare Commission (“IWC”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendant.

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees by: (a) failing to provide accurate and complete wage
15 statements in violation of Labor Code section 226; (b) failing to pay meal and rest period
16 premium at the regular rate of pay in violation of Labor Code sections 226.7 and 512; and (c)
17 failing to pay sick pay at the regular rate of pay and pay all final wages owed in violation of
18 Labor Code sections 201, 202, 203, 204, and 246.

19 **JURISDICTION AND VENUE**

20 4. The Court has jurisdiction over the violations of the California Labor Code
21 sections 201, 202, 203, 204, 226, 226.7, 246, 512, 2698, *et seq.*, and the applicable IWC Wage
22 Orders.

23 5. Venue is proper in San Mateo County because Plaintiff worked for Defendants in
24 the city of Millbrae, county of San Mateo, California.

25 **PARTIES**

26 6. Plaintiff was employed by Defendants as a Store Manager from about November
27 2021 to about August 11, 2022. Plaintiff worked as an hourly non-exempt employee.

28 7. Plaintiff was and is the victims of the policies, practices, and customs of

1 Defendant complained of in this action in ways that have deprived him of the rights guaranteed
2 by California Labor Code sections 201, 202, 203, 204, 226, 226.7, 246, 512, 2698, *et seq.*, and
3 the applicable IWC Wage Orders.

4 8. Plaintiff is informed and believes, and based thereon alleges, that The Red Wing
5 Brands of America, Inc. was and is a Minnesota corporation which operates as a shoe company
6 throughout the United States, including San Mateo County, California.

7 9. Plaintiff is informed and believes, and based thereon alleges, that at all times
8 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,
9 and partnerships, licensed to do business and actually doing business in the State of California.
10 As such, and based upon all the facts and circumstances incident to Defendants' business,
11 Defendants are subject to the California Labor Code and the applicable IWC Wage Orders.

12 10. Plaintiff does not know the true names or capacities, whether individual, partner
13 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
14 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
15 complaint when the true names and capacities are known. Plaintiff is informed and believes and
16 based thereon alleges that each of said fictitious defendants was responsible in some way for the
17 matters alleged herein and proximately caused Plaintiff and members of the general public and
18 aggrieved employees to be subject to the illegal employment practices, wrongs and injuries
19 complained of herein.

20 11. At all times herein mentioned, each defendant participated in the doing of the acts
21 hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants,
22 and each of them, were the agents, servants and employees of each of the other defendants, as
23 well as the agents of all Defendants, and at all times herein mentioned, were acting within the
24 course and scope of said agency and employment.

25 12. Plaintiff is informed and believes, and based thereon alleges, that at all times
26 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
27 joint venturer of, or working in concert with each of the other co-Defendants and was acting
28 within the course and scope of such agency, employment, joint venture, or concerted activity. To

1 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
2 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
3 Defendants.

4 13. At all times herein mentioned, Defendants, and each of them, were members of,
5 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
6 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

7 14. At all times herein mentioned, the acts and omissions of various Defendants, and
8 each of them, concurred and contributed to the various acts and omissions of each and all of the
9 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
10 herein mentioned, Defendants, and each of them, ratified each and every act or omission
11 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
12 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
13 damages as herein alleged.

14 **FIRST CAUSE OF ACTION**

15 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

16 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

17 15. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
18 though fully set forth herein.

19 16. Plaintiff brings this cause of action as a proxy for the State of California and in
20 this capacity, seeks penalties on behalf of all Aggrieved Employees from September 14, 2021,
21 through the present, for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226,
22 226.7, 246, 512, 2698, *et seq.*, as identified above, for: (a) failing to provide accurate and
23 complete wage statements in violation of Labor Code section 226; (b) failing to pay meal and
24 rest period premium at the regular rate of pay in violation of Labor Code sections 226.7 and 512;
25 and (c) failing to pay sick pay at the regular rate of pay and pay all final wages owed in violation
26 of Labor Code sections 201, 202, 203, 204, and 246.

27 17. Plaintiff and Aggrieved Employees earned non-discretionary remuneration,
28 including without limitation, commissions and/or incentives. Plaintiff and Aggrieved Employees

1 were paid meal and rest period premium for missed meal and rest periods at the base rate of pay
2 as Defendants failed to include any non-discretionary remuneration earned into the calculation of
3 the regular rate. Specifically, whenever Plaintiff and Aggrieved Employees received meal and
4 rest period premium pay during workweeks in which they earned non-discretionary
5 remuneration, the meal and rest period premium was paid at the base rate of pay. Further,
6 Defendants failed to pay Plaintiff and Aggrieved Employees all the wages owed upon separation
7 of employment due to the unpaid missed meal and rest period premiums.

8 18. Additionally, Plaintiff and Aggrieved Employees were not paid sick pay at the
9 regular rate of pay. Specifically, when Plaintiff and Aggrieved Employees earned non-
10 discretionary remuneration, thus increasing the regular rate of pay, sick pay was paid at the base
11 rate of pay rather than the regular rate of pay. At the termination of Plaintiff and the Aggrieved
12 Employees' employment, they were not paid all final wages owed, including all of their sick pay
13 wages.

14 19. Finally, Plaintiff and Aggrieved Employees received itemized wage statements
15 concurrent with the payment of wages. As a result of Defendants' failure to pay proper rates of
16 pay for meal/rest period premiums, and sick pay wages, the wage statements issued to Plaintiff
17 and Aggrieved Employees failed to identify the correct gross wages earned, net wages earned,
18 and correct hourly rates of pay.

19 20. On or about September 14, 2022, Plaintiff sent written notice to the California
20 Labor & Workforce Development Agency ("LWDA") of Defendants' violation of Labor Code §
21 226, pursuant to Labor Code § 2698, et seq., the Private Attorneys General Act ("PAGA").
22 Plaintiff also sent written notice of said Labor Code violations to Defendant via certified mail
23 pursuant to Labor Code § 2699.3. As of the date of the filing of this Complaint, the LWDA has
24 not provided written notice regarding whether it intends to investigate the Labor Code violations
25 set forth in Plaintiff's written notice.

26 21. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and
27 all applicable civil penalties for Defendants' violation of Labor Code §§ 226 and 2698 for the
28 time period described above, on behalf of himself and other Aggrieved Employees.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf
3 this suit is brought against Defendants, jointly and severally, as follows:

4 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
5 the PAGA, Labor Code section 226.3, and for costs and attorneys' fees;

6 2. On all causes of action for attorneys' fees and costs as provided by Labor Code
7 section 2699 and California Code of Civil Procedure section 1021.5; and

8 3. For such other and further relief as the Court may deem just and proper.
9

10 DATED: November 28, 2022

DIVERSITY LAW GROUP, P.C.

11
12 By: 

Larry W. Lee

Max W. Gavron

Kwanporn "Mai" Tulyathan

Shalom "Christine" Choo

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15 Attorneys for Plaintiff and the Aggrieved
16 Employees
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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On November 28, 2022, I served the following document(s) described as: **FIRST AMENDED REPRESENTATIVE ACTION COMPLAINT UNDER THE PRIVATE ATTORNEYS GENERAL ACT OF 2004** on the interested parties in this action as follows:

Soojin Kang Jeffrey S. Ranen Sona Patel Lewis Brisbois Bisgaard & Smith LLP 633 West 5 th Street, Suite 4000 Los Angeles, California 90071	<i>Attorneys for Defendant Red Wing Brands of America, Inc.</i> Soojin.Kang@lewisbrisbois.com Jeffrey.Ranen@lewisbrisbois.com Sona.Patel@lewisbrisbois.com
Dept23@sanmateocourt.org complexcivil@sanmateocourt.org	<i>San Mateo Superior Court</i>

 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 28, 2022, at Los Angeles, California.



Erika Mejia

EXHIBIT B

SETTLEMENT AGREEMENT

This Agreement is made by and between Michael Conner, individually and on behalf of the Allegedly Aggrieved Employees he seeks to represent and the Labor & Workforce Development Agency (“LWDA”), on the one hand, and Red Wing Brands of America, Inc. (“Red Wing”), on the other hand, subject to both the terms and conditions hereof and the approval of the Court.

I. Definitions.

A. “Action” means the operative Complaint filed in the lawsuit filed by Plaintiff Michael Conner on September 20, 2022, entitled *Michael Conner, as an individual and on behalf of all others similarly situated v. Red Wing Brands of America, Inc., a Minnesota corporation; and Does 1 through 50, inclusive*, Superior Court of California, County of San Mateo, case number 22-CIV-03830.

B. “Agreement” means this document and **Exhibit A** hereto. **Exhibit A** is expressly incorporated into this document by reference as though fully set forth herein.

C. “Allegedly Aggrieved Employees” means all non-exempt employees employed by Red Wing in the State of California during the PAGA Period who received a meal period premium and/or sick pay wages and non-discretionary remuneration during the same pay period.

D. “Applicable Pay Periods” means the number of pay periods during which an Allegedly Aggrieved Employee was paid meal period premium and/or sick pay wages and non-discretionary remuneration during the same pay period during the PAGA Period.

E. “Approval” means the date on which the Court approves the Settlement and judgment is entered by the Court.

F. “Approval Order” means an order issued by the Court approving this Agreement as binding upon the Parties.

G. “Attorneys’ Costs Award” means the reimbursement of costs authorized by the Court to be paid to Plaintiff’s Counsel in connection with services rendered representing Plaintiff and the Allegedly Aggrieved Employees in the Action. Defendant shall not oppose an Attorneys’ Costs Award of up to Seven Thousand Five Hundred Dollars (\$7,500.00).

H. “Attorneys’ Fee Award” means an award of attorneys’ fees authorized by the Court to be paid to Plaintiff’s Counsel for the services rendered representing Plaintiff and the Allegedly Aggrieved Employees in the Action. In no event shall the Attorneys’ Fee Award exceed one-third of the Gross Settlement Amount or Fifty-One Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$51,666.67).

I. “Court” means the Superior Court of the State of California, County of San Mateo, where the Action is pending.

J. “Defendant” or “Red Wing” means Red Wing Brands of America, Inc.

K. “Defendant’s Counsel” means Soojin Kang, Esq. of the law firm of O’Hagan Meyer, counsel for Defendant in the Action.

L. “Gross Settlement Amount” means the total amount to be paid by Defendant not to exceed One Hundred Fifty-Five Thousand Dollars (\$155,000.00) which will be apportioned into the following amounts as set forth herein: (1) Settlement Administration Costs (not to exceed \$4,500.00) to be paid to the Settlement Administrator; (2) a Service Payment (not to exceed \$10,000.00) to be paid to Plaintiff; (3) an Attorneys’ Fee Award (not to exceed \$51,666.67) to be paid to Plaintiff’s Counsel; (4) an Attorneys’ Costs Award (not to exceed \$7,500.00) to be paid to Plaintiff’s Counsel; (5) the Net Employee Fund to be distributed for the benefit of the Allegedly Aggrieved Employees; and (6) the LWDA Payment.

M. “LWDA Payment” means seventy-five percent (75%) of the Gross Settlement Amount remaining after subtracting the Attorneys’ Fee Award, Attorneys’ Costs Award, Settlement Administration Costs, and Service Payment, to be paid by the Settlement Administrator to the California Labor and Workforce Development Agency (“LWDA”) from the Gross Settlement Amount within fifteen (15) business days after Defendant makes the Gross Settlement Amount payment consistent with the terms of this Agreement.

N. “Net Employee Fund” means the net of the Gross Settlement Amount less (1) any Attorneys’ Fee Award, (2) any Attorneys’ Costs Award, (3) any Settlement Administration Costs, (4) LWDA Payment, and (5) any Service Payment.

O. “PAGA Period” means the time period of September 14, 2021, through July 15, 2023.

P. “PAGA Representative Service Payment” or “Service Payment” means an award authorized by the Court to be paid to Plaintiff in recognition of his efforts in prosecuting the Action and obtaining the settlement in a representative capacity, as well as in exchange for a general release of all claims and waiver of the protections of Civil Code section 1542. In no event shall any Service Payment to Plaintiff exceed Ten Thousand Dollars (\$10,000.00).

Q. “Parties” means Plaintiff and Defendant.

R. “Plaintiff” means the plaintiff in the Action, Michael Conner.

S. “Plaintiff’s Counsel” means the law firms of Diversity Law Group and Polaris Law Group, counsel for Plaintiff.

T. “Released Claims” means all claims, causes of action, demands, damages, or liabilities arising at any time during the PAGA Period that were pled or which could have reasonably been pled based on the factual allegations contained in the operative Complaint or any amendments thereto and notice(s) filed with the LWDA, including but not limited to claims

brought under the Private Attorneys General Act (“PAGA”) for civil penalties premised on the violation of Labor Code Sections 201, 202, 203, 204, 226, 226.7, 246, and 512, and claims under Labor Code Sections 226.3 and 1021.5.

U. “Released Parties” means (a) Red Wing and any direct or indirect parents, subsidiaries, divisions, affiliates, and related entities of Red Wing; (b) any predecessors, successors, or assigns of any of the foregoing (a); and (c) any past, present, or future employees, officers, directors, affiliates, partners, joint venturers, co-venturers, licensors, licensees, franchisors, franchisees, principals, members, managers, managing agents, agents, attorneys, accountants, insurers, reinsurers, shareholders, investment bankers, trusts, trustees, representatives, administrators, fiduciaries, heirs, subrogees, and executors of any of the foregoing (a)-(b) in his, her, their, or its capacity as such.

V. “Settlement” means the terms and conditions set forth in this Agreement.

W. “Settlement Administration Costs” means the actual and direct costs reasonably charged by the Settlement Administrator in an amount not to exceed Four Thousand Five Hundred Dollars (\$4,500.00) for its services in administering and distributing the Gross Settlement Amount.

X. “Settlement Administrator” means the settlement administrator appointed to administer this Settlement pursuant to the Agreement, Phoenix Settlement Administrators.

Y. “Settlement Share” means the portion of the Net Employee Fund allocable to each Allegedly Aggrieved Employee as provided by this Agreement.

II. Recitals.

A. On September 14, 2022, Plaintiff, an employee of Defendant, sent a letter to the LWDA alleging Defendant violated California Labor Code sections 201-204, 226, 226.7, 246, and 512, pursuant to PAGA. On October 17, 2022, Defendant filed a letter with the LWDA, alleging that it had cured the violation of Labor Code section 226(a)(8). On November 15, 2022, the LWDA issued a decision confirming that Defendant had cured the violation of Labor Code section 226(a)(8).

B. On September 20, 2022, Plaintiff filed this Action against Defendant, alleging class action claims for violation of Labor Code sections 201-204, 226, 226.7, 246, and 512 and Business and Professions Code section 17200, *et seq.*

C. On November 28, 2022, Plaintiff amended his complaint to allege a single cause of action for violation of Labor Code section 2698, *et seq.*, predicated on underlying violations of Labor Code sections 201-204, 226, 226.7, 246, and 512. The First Amended Complaint is the operative complaint in the Action.

D. On January 13, 2023, Defendant filed an answer to Plaintiff’s First Amended Complaint, denying the material allegations and asserting various affirmative defenses.

E. Following the filing of Defendant's answer, the Parties engaged in informal settlement discussions. The Parties exchanged informal discovery, including Defendant's production of payroll data, and engaged in extensive arm's length negotiations, ultimately reaching a settlement.

F. Plaintiff has claimed, and continues to claim, that the contentions he has made in the Action have merit. Nothing in this Agreement may be construed as, or may be used as, an admission by Plaintiff that any of his claims are without merit.

G. Defendant expressly denies any liability. Defendant denies all claims, contentions, and each and every allegation made by Plaintiff in the Action. Nothing in this Agreement may constitute, may be construed as, or may be used as an admission by Defendant of any fault, wrongdoing, or liability whatsoever. Further, nothing in this Agreement shall constitute an admission of the accuracy of any allegation made by Plaintiff or Plaintiff's Counsel.

H. Plaintiff's Counsel and Defendant's Counsel have conducted sufficient investigation and research to reach this Agreement.

I. Plaintiff's Counsel have investigated and evaluated the applicable law and facts regarding the claims presented in the Action and the potential defenses thereto. Plaintiff's Counsel have discussed and assessed the relative strength of the fundamental premises underlying the Action and have concluded that this Settlement is fair and adequate under the circumstances.

J. Plaintiff therefore deems it desirable and beneficial that the Action be settled in the manner and upon the terms and conditions set forth herein.

K. Plaintiff, on his own behalf and as a representative of the Allegedly Aggrieved Employees and the LWDA, further acknowledges and agrees that Defendant disputes the merits of the claims against it.

L. Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of Defendant's time, energy, and resources have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Action.

NOW THEREFORE, it is agreed by and between the undersigned that the Action be settled and compromised as among Plaintiff (on behalf of himself and the Allegedly Aggrieved Employees and the LWDA) and Defendant, conditioned upon approval of the Court, on the following terms and conditions.

III. Consideration from Defendant.

A. Gross Settlement Amount. In full, complete, and final settlement and satisfaction of the Action as against Defendant and the Released Parties, and all Released Claims, and subject to all of the terms, conditions, and provisions of this Agreement, including Court Approval, Defendant agrees to provide the following consideration:

- a. The Parties acknowledge and agree Defendant shall pay a total of One Hundred Fifty-Five Thousand Dollars (\$155,000.00) in consideration of the Released Claims asserted in the Action.
- b. Allegedly Aggrieved Employees. Defendant represents that there are approximately two hundred and forty-four (244) Allegedly Aggrieved Employees who worked approximately two thousand three hundred fifteen (2,315) pay periods during the Applicable Pay Periods.
- c. Escalator. Should the actual number of Applicable Pay Periods exceed 2,315 by more than ten percent (10%), i.e., be greater than 2,547, the Gross Settlement Amount will increase pro rata for any percentage higher than ten percent (10%). For example, should the actual number of Applicable Pay Periods increase by eleven percent (11%) greater than 2,315, the Gross Settlement Amount will increase by one percent (1%).
- d. Within twenty-one (21) calendar days after the Court issues the Approval Order, Defendant shall fund the Gross Settlement Amount by payment to the Settlement Administrator. Except as provided above in paragraph III.A.c., the Gross Settlement Amount is the maximum amount that Defendant will pay in connection with this Settlement under any circumstances. Once the payment is made, Defendant shall have no liability or obligation with respect to disbursement of the Gross Settlement Amount.
- e. In the event the Settlement is cancelled pursuant to this Agreement, the Court denies Approval, or an appeal leaves the Settlement unenforceable, the Parties shall be returned to the same positions as existed at the time of this Agreement and all funds in the Gross Settlement Amount provided for in this paragraph shall be returned to Defendant, with the exception of amounts paid or owing to the Settlement Administrator for Administration Costs actually incurred for services already performed, which shall be paid by Defendant if still owed.

IV. Court Approval.

A. Motion for Court Approval of Settlement. Counsel for the Parties shall jointly request a hearing before the Court to be held on the earliest practicable date to seek Approval of the Settlement. In conjunction with such hearing, Plaintiff's Counsel shall submit this

Agreement, together with Exhibit A hereto, a Motion for Court Approval of Settlement, and any other documents necessary to implement the Settlement. Plaintiff's Counsel will draft the Motion for Court Approval of Settlement, will make it available to Defendant a reasonable period of time prior to the filing of the motion, and will work with Defendant in good faith to make the motion acceptable to Defendant.

B. The Parties agree there is no statutory right to provide Allegedly Aggrieved Employees the option to opt out of the Settlement.

C. Submission to LWDA. Within ten (10) calendar days after the Court's entry of the Approval Order, Plaintiff's Counsel will submit a copy of the Court's Approval Order to the LWDA pursuant to California Labor Code section 2699(1)(3).

D. The Court shall retain jurisdiction to enforce the terms of this Agreement and the Approval Order, and this Agreement shall be admissible to prove the Settlement and the release of the Released Claims against the Released Parties.

V. Fee, Expense, and Service Payments.

A. Attorneys' Costs Award. As a part of the Motion for Court Approval of Settlement, Plaintiff's Counsel intends to request that the Court award them an Attorneys' Costs Award but agree that the requested Attorneys' Cost Award shall not exceed Seven Thousand Five Hundred Dollars (\$7,500.00). The Attorneys' Costs Award shall be for all claims for costs and expenses, past, present, and future incurred in the Action (exclusive of any request for an Attorneys' Fee Award as set forth in this Agreement). Defendant shall not object and will affirmatively express Defendant's non-opposition to Plaintiff's Counsel's request for an Attorneys' Costs Award provided Plaintiff's Counsel's request for an Attorneys' Costs Award shall not exceed Seven Thousand Five Hundred Dollars (\$7,500.00). The Settlement Administrator shall pay the Attorneys' Costs Award from the Gross Settlement Amount to Plaintiff's Counsel within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount.

- a. If the Court awards Plaintiff's Counsel less than Seven Thousand Five Hundred Dollars (\$7,500.00) for the Attorneys' Costs Award, the remainder will be added back to the Gross Settlement Amount.

B. Attorneys' Fee Award. As part of the Motion for Court Approval of Settlement, Plaintiff's Counsel intends to request that the Court award them an Attorneys' Fee Award but agree that the requested Attorneys' Fee Award shall not exceed one-third of the Gross Settlement Amount, or Fifty-One Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$51,666.67). Plaintiff's Counsel shall not be permitted to petition the Court against Defendant for any additional payments for fees from Defendant unless the Escalator Clause in III.A.c. is activated, provided, however, that under no circumstance may Plaintiff's Counsel seek an Attorneys' Fee Award in excess of one-third of any increased Gross Settlement Amount resulting from the Escalator Clause. The Attorneys' Fee Award shall be for all claims for attorneys' fees, past, present, and future incurred in the Action (exclusive of any request for an Attorneys' Costs

Award as set forth in this Agreement). Defendant shall not object and will affirmatively express Defendant's non-opposition to Plaintiff's Counsel's request for an Attorneys' Fee Award provided Plaintiff's Counsel's request for an Attorneys' Fee Award shall not exceed Fifty-One Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$51,666.67), *i.e.*, one-third of the Gross Settlement Amount. The Settlement Administrator shall pay the Attorneys' Fee Award from the Gross Settlement Amount to Plaintiff's Counsel within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount.

- a. If the Court awards less than one-third of the Gross Settlement Amount for the Attorneys' Fee Award, the remainder will be added back to the Gross Settlement Amount.

C. Payment of the Gross Settlement Amount to the Settlement Administrator shall constitute full satisfaction by Defendant of any obligation to pay any amounts to any person, attorney, or law firm for attorneys' fees, expenses, or costs in the Action incurred by any attorney on behalf of Plaintiff and/or the Allegedly Aggrieved Employees and/or the LWDA, and shall relieve Defendant and Defendant's Counsel of any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of the Plaintiff and/or Allegedly Aggrieved Employees and/or the LWDA. Plaintiff and Plaintiff's Counsel represent and warrant that there exist no attorney liens or any encumbrances on any portion of the Gross Settlement Amount.

D. Defendant's own legal fees, costs, and expenses incurred in the Action shall be borne by Defendant.

E. Service Payment. As part of the Motion for Court Approval of Settlement, Plaintiff's Counsel intends to request that the Court approve a Service Payment for Plaintiff in an amount not to exceed a total of Ten Thousand Dollars (\$10,000.00) for his time in initiating and pursuing the Action against Defendant, agreeing to provide a general release of all claims, and for serving as the representative of the Allegedly Aggrieved Employees and the LWDA. Defendant will not object and will affirmatively express Defendant's non-opposition to Plaintiff's Counsel's request, provided that the Service Payment payable to Plaintiff does not exceed Ten Thousand Dollars (\$10,000.00).

- a. Any Service Payment approved by the Court shall be paid by the Class Administrator out of the Gross Settlement Amount to Plaintiff within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount. Any Service Payment paid to Plaintiff shall be reported on an IRS Form 1099 (*i.e.*, as "Other Income") and the Settlement Administrator shall issue an IRS Form 1099-MISC to Plaintiff for such amount. Plaintiff agrees that he alone is responsible for the tax consequences, including any penalties and interest, relating to the payment of any Service Payment.

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- b. If the Court awards less than Ten Thousand Dollars (\$10,000.00) as a Service Payment, the remainder will be added back to the Net Settlement Amount.

F. Neither the denial of, an appeal of, a modification of, nor a reversal on appeal of any Attorneys' Fee Award, Attorneys' Costs Award, Service Payment, Settlement Administrator's Fees, or Settlement Shares (as defined in Section I(Y)) shall constitute grounds for cancellation or termination of this Agreement.

VI. Settlement Administration.

A. Settlement Notice. The Parties, subject to Court Approval, agree to the following procedures for giving notice of this Settlement to the Allegedly Aggrieved Employees:

- a. Within twenty-one (21) calendar days of Approval or on such date otherwise ordered by the Court, Defendant shall provide to the Settlement Administrator an electronic list that includes the following information for each Allegedly Aggrieved Employee: their first and last name, last known mailing address, Social Security Number, and the number of Applicable Pay Periods. The Settlement Administrator shall not share this information with anyone, including but not limited to Plaintiff and Plaintiff's Counsel. After delivery of the information set forth in this Paragraph to the Settlement Administrator, the Settlement Administrator shall obtain updates, if any, to the last known mailing addresses using information reasonably available from the National Change of Address database maintained by the United States Postal Service and such additional efforts as the Settlement Administrator reasonably believes are appropriate to identify updated mailing addresses, if any.
- b. The Settlement Administrator shall send a copy of the notice explaining the Settlement (**Exhibit A**) ("Settlement Notice") and the Allegedly Aggrieved Employee's Settlement Share to all persons shown by Defendant's records to be Allegedly Aggrieved Employees, via First Class U.S. Mail, no later than fifteen (15) calendar days following receipt of the information described in paragraph VI(A)(a) of this Agreement.
- c. The Settlement Administrator shall perform a single skip trace using an industry accepted source such as Accurant and using information identifying the Allegedly Aggrieved Employee, as necessary, to conduct an address update on any Settlement Notice described in section VI(A)(b) returned as undeliverable to the Settlement Administrator. The Settlement Administrator shall re-mail all Settlement Notices to new addresses identified by Skip Tracing within three (3) business days of obtaining such new addresses.

- d. Any Settlement Notices returned to the Settlement Administrator as undelivered and bearing a forwarding address shall be re-mailed by the Settlement Administrator within three (3) business days following receipt of the returned mail.
- e. The Settlement Administrator shall keep Defendant's Counsel and Plaintiff's Counsel apprised of the status of distribution of the Settlement Notice and Settlement Shares to the Allegedly Aggrieved Employees.

B. Net Employee Fund and Settlement Shares. The Settlement Administrator shall have sole authority for determining the Net Employee Fund and Settlement Share to each Allegedly Aggrieved Employee.

- a. For purposes of calculating the Net Employee Fund, the Settlement Administrator shall deduct the actual Settlement Administration Costs, the actual Service Payment, if any, the actual Attorneys' Fee Award, if any, the actual Attorneys' Costs Award, if any, and the LWDA Payment that were approved by the Court from the Gross Settlement Amount.
- b. The Settlement Share to each Allegedly Aggrieved Employee shall be determined by the Settlement Administrator dividing the Net Employee Fund by the total number of Applicable Pay Periods, and then multiplying that amount by the Applicable Pay Periods attributed to the individual Allegedly Aggrieved Employee.
- c. Any check issued to any Allegedly Aggrieved Employee shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of its issuance. Upon the expiration of the one hundred eighty (180) calendar day deadline, the funds from each uncashed check shall be forwarded to the State of California Controller's Office's Unclaimed Property Fund in the name of the Allegedly Aggrieved Employee who did not cash his/her respective Settlement Share check.

C. The Settlement Administrator shall be responsible for at least the following:

- a. Receiving, tracking, and organizing the Allegedly Aggrieved Employees' information provided by Defendant;
- b. Following up with Defendant with any questions about the Allegedly Aggrieved Employees' information provided;
- c. Printing and mailing to the Allegedly Aggrieved Employees the Settlement Notice approved by the Court;
- d. Performing address updates and verifications prior to the first mailing of the Settlement Notice;

- e. Performing at least a single Skip Trace address follow up on any returned mail;
- f. Resolving any issues that may arise concerning whether an individual is an Allegedly Aggrieved Employee and/or the number of Applicable Pay Periods at issue with regard to each Allegedly Aggrieved Employee;
- g. Consulting with counsel for the Parties concerning any relevant issue, including (without limitation) distribution of the Settlement Notice and payment of Settlement Shares;
- h. Calculating the LWDA Payment, Net Employee Fund, and Settlement Shares, consistent with the terms of this Agreement and any order of the Court;
- i. Distributing, by mail or otherwise, and paying Settlement Shares, and the LWDA Payment, any Attorneys' Fee Award, any Attorneys' Costs Award, any Service Payment, and Settlement Administration Costs as may be ordered by the Court or as otherwise required by this Agreement;
- j. All tasks assigned to the Settlement Administrator under this Agreement, which, if not completed properly or accurately, shall subject the Settlement Administrator to liability for any costs, fines, losses, or expenses or other amounts incurred by the Parties; and
- k. Such other tasks as counsel for the Parties agree or the Court orders the Settlement Administrator to perform.

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

E. The Settlement Administrator is not an agent of Plaintiff, Plaintiff's Counsel, Defendant, or Defendant's Counsel.

F. The Settlement Administrator is not authorized by this Agreement or otherwise to act on behalf of Plaintiff, Plaintiff's Counsel, Defendant, or Defendant's Counsel except as set forth herein.

G. The Parties agree to cooperate in the Settlement administration process and to use commercially reasonable efforts to carry out the terms of this Settlement and to control and minimize the costs and expenses incurred in the administration and implementation of the Settlement.

H. Within thirty (30) calendar days after the 180-day expiration period for the Settlement Shares, the Settlement Administrator shall provide counsel for all Parties with a written report listing the total amount of the Net Employee Fund paid; the number of checks issued to the Allegedly Aggrieved Employees; the number and total dollar amount of such checks that were negotiated and cashed; the number and total dollar amount of checks issued that were not negotiated and cashed, if any; the amount of the LWDA Payment paid to the LWDA; the amount of Settlement Administration Costs; and the amount of the Net Employee Fund paid or to be paid to the State of California Controller's Office's Unclaimed Property Fund, if any.

I. The Settlement Administration Costs incurred by, or at the direction of, the Settlement Administrator in connection with the administration and implementation of this Agreement in an amount not exceeding Four Thousand Five Hundred Dollars (\$4,500.00), absent prior approval by the Court, shall be paid out of the Gross Settlement Amount within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount.

J. Upon completion of the implementation and administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to counsel for all Parties.

K. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff, Plaintiff's Counsel, or the Settlement Administrator based on the mailings, distribution, or Settlement Share payment made in accordance with this Agreement or any order of the Court.

VII. Release and Waivers.

A. Except with respect to the obligations arising out of the Settlement and in consideration of the payments and terms set forth above, Plaintiff, the Allegedly Aggrieved Employees and the LWDA expressly, to the fullest extent permitted by law, fully and forever compromise, release, resolve, relinquish, and discharge the Released Parties from the Released Claims (as defined in this Agreement). To the fullest extent permitted by law, Plaintiff agrees not to commence or participate in any claim, demand, grievance, action, or other proceeding against the Released Parties based upon the claims being released.

B. Except with respect to the obligations arising out of the Settlement, the Released Claims of Plaintiff, the Allegedly Aggrieved Employees, and the LWDA against the Released Parties are fully and forever compromised, released, resolved, relinquished, and discharged through the PAGA Period. For the avoidance of doubt, as of the entry of the Approval Order, Plaintiff, the Allegedly Aggrieved Employees, and the LWDA are bound by the settlement of the Released Claims.

C. Plaintiff's General Release. Upon approval by the Court of this Agreement, Plaintiff shall fully release and forever discharge the Released Parties for any and all causes of action, obligations, costs, expenses, damages, claims, liabilities, and benefits (including attorneys' fees and costs), of whatever character, in law or in equity, known or unknown, suspected or unsuspected, matured or otherwise, of any kind whatsoever, now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the

beginning of time to the date that Plaintiff signs this Agreement, including but not limited to any claims or causes of action which were, or could have been asserted in the Action and/or arising out of his employment, if any, with the Released Parties.

- a. Plaintiff specifically waives the benefit of the provisions of California Civil Code section 1542, which provides as follows:

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.

- b. Notwithstanding the provisions of Section 1542, Plaintiff expressly acknowledges that this Agreement is also intended to include in its effect, without limitation, all claims which Plaintiff does not know or suspect to exist in his favor at the time of the execution hereof, and that this Agreement contemplates the extinguishment of any such claim.

VIII. Miscellaneous.

A. Confidentiality. The Parties, Plaintiff's Counsel, and Defendant's Counsel agree that the existence and contents of this Settlement and all related settlement communications will remain confidential until the Motion for Court Approval of Settlement is filed with the Court. This provision shall not prevent the disclosure of such information prior to the filing of the Motion for Court Approval of Settlement with the Court to (1) regulators, rating agencies, independent accountants, advisors, financial analysts, agents, existing or potential insurers or reinsurers, experts, courts, and any existing or potential investor of or any existing or potential lender to any of the Released Parties, the Settlement Administrator as may reasonably be required to effectuate this Settlement, and/or as otherwise required to comply with any applicable law or regulation; (2) any person or entity to whom the Parties agree in writing disclosure must be made to effectuate this Settlement, and/or (3) by Defendant or any of the Released Parties as necessary for any reasonable commercial purpose.

B. Plaintiff and Plaintiff's Counsel agree that the discussions and the information exchanged in the course of negotiating this Settlement and Agreement are confidential and were made available on the condition that they not be disclosed to third parties, that they not be the subject of public comment, and that they not be publicly disclosed or used by Plaintiff or Plaintiff's Counsel in any way in the Action should it not settle or in any other proceeding.

C. Prohibition on Press Releases. Plaintiff and Plaintiff's Counsel agree they will not contact the press, issue any press releases, give any interviews, or comment upon this Settlement to any person in any way other than as specifically provided in this Agreement. Plaintiff and Plaintiff's Counsel agree that, if approached by any person other than Allegedly Aggrieved Employees, they will say only that the Action settled. Upon entry of the Approval Order, Plaintiff's Counsel may identify the Settlement and/or the Approval Order and shall

comply with all confidentiality provisions of this Agreement. Plaintiff and Plaintiff's Counsel agree not to publicize the existence or terms of this Settlement to third parties, which includes making no mention of it on Plaintiff's Counsel's website or on social media, except to apply for and obtain Court approval of this Settlement and to comply with reporting requirements under PAGA, Labor Code section 2699 et seq.

D. Confidential Materials. The Parties agree to cooperate and to work with one another to protect any confidential materials exchanged in connection with mediation or otherwise produced in the Action. This includes, but is not limited to, stipulating that any confidential information submitted to any court in the Action will be sealed.

E. Agreement to Cooperate. All of the Parties, their successors and assigns, and their attorneys agree to cooperate with one another in seeking Court Approval of this Settlement and to effectuate this Agreement.

F. Discovery. The Parties agree that all pending discovery requests are withdrawn.

G. Choice of Law/Venue. In determining the rights of the Parties hereto, this Agreement shall be governed by, construed, and interpreted in accordance with the internal laws of the State of California, without regard to the conflict of laws principles thereof. In addition, any action brought to enforce the provisions of this Agreement shall be commenced, prosecuted, and defended exclusively in the Superior Court of the State of California, County of San Mateo.

H. Warranties. Each signatory to this Agreement hereby warrants that (s)he has the authority to execute this Agreement and thereby bind the respective Party. Plaintiff warrants and represents that he is standing in the shoes of the LWDA with respect to the Released Claims and has not heretofore voluntarily, by operation of law or otherwise, sold, assigned, or transferred or purported to sell, assign, or transfer to any other person or entity any Released Claims or any part or portion thereof.

I. Binding Effect of the Agreement. The terms of this Agreement shall inure to the benefit of, and be binding upon, the Parties and their respective heirs, legal representatives, executors, administrators, successors, and assigns.

J. Integration Clause. This Agreement and its attachments constitute the entire agreement of the Parties with respect to the matters discussed herein, and supersede all prior or contemporaneous oral or written understandings, negotiations, agreements, statements, or promises. In executing this Agreement, the Parties acknowledge that they have not relied upon any oral or written understandings, negotiations, agreements, statements, or promises that are not set forth in this Agreement or its incorporated **Exhibit A**.

K. Modifications in Writing Only. This Agreement may not be amended or modified in any respect except by a written instrument duly executed by all of the Parties to this Agreement or their counsel. Non-material amendments or modifications to this Agreement may be made in writing between Plaintiff's Counsel and Defendant's Counsel.

L. Withdrawal from Agreement. If the Court indicates, prior to the Approval Order, that the Settlement will not be approved unless certain changes are made, the Parties will attempt in good faith to reach an agreement as to any such changes prior to withdrawing from this Agreement. However, if no such agreement can be reached within thirty (30) calendar days after the Court indicates that the Settlement will not be approved unless certain changes are made, absent a written agreement among the Parties to continue discussions, then Plaintiff or Defendant may terminate and withdraw from this Agreement consistent with Paragraphs III(A)(e) and VIII(M) of this Agreement but prior to withdrawing must first engage in a mediation with an agreed-upon mediator.

M. Extensions. Without further order of the Court, Plaintiff's Counsel and Defendant's Counsel may agree in writing to reasonable extensions of time to carry out any of the provisions of this Agreement or the Approval Order.

N. Headings. The headings and captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision thereof.

O. Notice. All notices or other communications given pursuant to this Agreement will be in writing and addressed to:

Plaintiff's Counsel:

Larry W. Lee (lwlee@diversitylaw.com)
Max W. Gavron (mgavron@diversitylaw.com)
Kwanporn "Mai" Tulyathan (ktulyathan@diversitylaw.com)
Christine S. Lee (christine@diversitylaw.com)
Diversity Law Group
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
Telephone: (213) 488-6555

William L. Marder (bill@polarislawgroup.com)
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
Telephone: (831) 4214

Defendant's Counsel:

Soojin Kang (skang@ohaganmeyer.com)
O'Hagan Meyer
550 S. Hope Street, Suite 2400
Los Angeles, CA 90071
Telephone: (213) 647-0086

P. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, and this Agreement is effective upon execution of at least one counterpart by each party to this Agreement.

Q. No Admissions. If this Agreement does not become effective or is cancelled or terminated for any reason, it shall be deemed negotiations for settlement purposes only and will not be admissible in evidence or usable for any purposes whatsoever in the Action or any proceedings between the Parties. Defendant denies all of the claims, contentions, and each and every allegation made by Plaintiff in the Action and expressly disclaims that any action, omission, or alleged wrongdoing by it, including entering into this Agreement or Defendant paying the amounts provided for herein, constitutes, acknowledges, or supports the existence or finding of a violation of the California Labor Code or gives rise to the imposition of any civil or statutory penalties under PAGA or otherwise. Nothing in this Agreement may constitute, may be construed as, or may be used as an admission by Defendant of any fault, wrongdoing, or liability whatsoever.

R. No Tax Advice. Neither Plaintiff's Counsel nor Defendant's Counsel intend anything contained herein to constitute legal advice regarding the tax consequences of any amount paid hereunder, nor shall it be relied upon as such.

S. Terminology and Construction. All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders and the singular shall include the plural and vice versa.

T. Conflicts. In the event of a conflict between this Agreement and any other document prepared pursuant to the Settlement, the terms of this Agreement supersede and control.

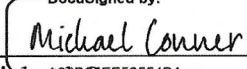
U. Disputes Regarding Language of Settlement Agreement. If the Parties have a dispute with regard to the language of the Agreement, the Parties agree to attempt to informally resolve the dispute by engaging the Court to mediate such dispute.

V. Waiver. Any failure by any Party to insist upon the strict performance by any other Party of any provisions of this Agreement shall not be deemed a waiver of any provision of this Agreement and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

W. Agreement Drafted by All Parties. This Agreement has been, and shall be construed to have been, drafted by all the Parties to it, and the Parties agree that any rule which construes ambiguities against the drafter shall have no force or effect.

PLAINTIFF MICHAEL CONNER

RED WING BRANDS OF AMERICA, INC.

DocuSigned by:

Michael Conner


By: Sarah Erickson
EVP & General Counsel

Its: _____

APPROVED AS TO FORM:

DIVERSITY LAW GROUP



Larry W. Lee
Max W. Gavron
Kwanporn “Mai” Tulyathan
Christine S. Lee
Plaintiff’s Counsel

O’HAGAN MEYER



Soojin Kang
Defendant’s Counsel

EXHIBIT A

**NOTICE OF LABOR CODE PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT
AND RELEASE OF CLAIMS**

I. Notice of Settlement.

On [REDACTED], the Superior Court for the County of San Mateo approved a settlement of claims brought pursuant to the Private Attorneys General Act, California Labor Code section 2698, *et seq.* (“PAGA”), in the matter entitled *Michael Conner, as an individual and on behalf of all others similarly situated v. Red Wing Brands of America, Inc., a Minnesota corporation; and Does 1 through 50, inclusive*, Superior Court of California, County of San Mateo, case number 22-CIV-03830 (the “Action”).

The Action was brought by Plaintiff Michael Conner (“Plaintiff”) on behalf of himself, allegedly aggrieved employees, and the State of California. Plaintiff alleged that Defendant Red Wing Brands of America, Inc. (“Red Wing”) failed to pay meal period premiums and sick pay at the regular rate of pay, in violation of California Labor Code sections 201-204, 226, 226.7, 246, 512, and 2699, *et seq.*

Red Wing expressly denies any liability and denies all claims, contentions, and each and every allegation made by Plaintiff. The Court has not made any determination as to whether the claims advanced by Plaintiff on behalf of himself and allegedly aggrieved employees, or the defenses raised by Red Wing, have any merit.

After arm’s length negotiations, Plaintiff and Red Wing (collectively as the “Parties”) agreed to resolve the Action with no decision or admission of who is right or wrong, pursuant to the terms and conditions set forth in a written Settlement Agreement (the “Settlement”).

The Gross Settlement Amount is One Hundred Fifty-Five Thousand Dollars (\$155,000.00) apportioned as follows: (1) Settlement Administration Costs (\$ [REDACTED].00); (2) a Service Payment (\$ [REDACTED].00) to Plaintiff; (3) an Attorneys’ Fee Award (\$ [REDACTED].00) to Plaintiff’s Counsel; (4) an Attorneys’ Costs Award (\$ [REDACTED].00) to Plaintiff’s Counsel; (5) the Net Employee Fund distributed to the Allegedly Aggrieved Employees; and (6) the Labor & Workforce Development Agency (“LWDA”) Payment.

By agreeing to resolve the Action, the parties avoid the risks and costs of a trial. The Settlement does not constitute an admission of the accuracy of any allegation made by Plaintiff or Plaintiff’s counsel or the strengths and weaknesses or Red Wing’s defenses. Furthermore, this Notice is not an expression of any opinion by the Court as to the merits of Plaintiff’s claims.

You are receiving this Notice because you are in the group of employees referred to as the “Allegedly Aggrieved Employees,” which is defined as all non-exempt employees employed by Red Wing in the State of California during the PAGA Period who received a meal period premium and/or sick pay wages and non-discretionary remuneration during the same pay period. The PAGA Period is the time period of September 14, 2021, through July 15, 2023. Allegedly Aggrieved Employees are entitled to share in the Settlement funds and will be bound by a release of claims, as more fully described below.

II. Settlement Shares.

The Settlement Share to each Allegedly Aggrieved Employee was calculated on a pro rata basis

based on the Net Employee Fund divided by the total number of pay periods during which Allegedly Aggrieved Employees were paid meal period premiums and/or sick pay wages and non-discretionary remuneration during the PAGA Period. Because this is an action under the PAGA, 75% of the net recovery is distributed to the LWDA, and the remaining 25%, or the Net Employee Fund, is distributed to the Allegedly Aggrieved Employees.

Settlement checks to the Allegedly Aggrieved Employees will remain valid and negotiable for one hundred eighty (180) calendar days from the date of issuance. Funds from any checks not deposited or cashed within that time will be forwarded to the State of California Controller's Office's Unclaimed Property Fund in the name of the respective Allegedly Aggrieved Employees where that individual may obtain them at a later date, if so desired.

III. Release.

Pursuant to the Court's Order dated [REDACTED], the Allegedly Aggrieved Employees are bound by the settlement of the Released Claims as to the Released Parties.

The Released Parties are (a) Red Wing and any direct or indirect parents, subsidiaries, divisions, affiliates, and related entities of Red Wing; (b) any predecessors, successors, or assigns of any of the foregoing (a); and (c) any past, present, or future employees, officers, directors, affiliates, partners, joint venturers, co-venturers, licensors, licensees, franchisors, franchisees, principals, members, managers, managing agents, agents, attorneys, accountants, insurers, reinsurers, shareholders, investment bankers, trusts, trustees, representatives, administrators, fiduciaries, heirs, subrogees, and executors of any of the foregoing (a)-(b) in his, her, their, or its capacity as such.

The Released Claims are all claims, causes of action, demands, damages, or liabilities arising at any time during the PAGA Period that were pled or which could have reasonably been pled based on the factual allegations contained in the operative Complaint or any amendments thereto and notice(s) filed with the LWDA, including but not limited to claims brought under the Private Attorneys General Act ("PAGA") for civil penalties premised on the violation of Labor Code Sections 201, 202, 203, 204, 226, 226.7, 246, and 512, and claims under Labor Code Sections 226.3 and 1021.5.

The Released Claims of Plaintiff and the Allegedly Aggrieved Employees against the Released Parties are fully and forever compromised, released, resolved, relinquished, and discharged through the PAGA Period, whether or not Allegedly Aggrieved Employees cash their checks within the 180-day window.

IV. Settlement Administrator.

If you have any questions about the Settlement, you may contact the Settlement Administrator, [REDACTED], at [REDACTED]. Pleadings and other records relevant to the claims can be found at the Superior Court for the County of San Mateo, located at Hall of Justice, 400 County Center, Redwood City, California 94063. They can also be accessed online through the Register of Actions located on Court's website at <https://odyportal-ext.sanmateocourt.org/Portal-External/Home/Dashboard/29> and using the case number 22-CIV-03830.

PLEASE DO NOT CONTACT THE COURT ABOUT THIS NOTICE.