

1 Virginia Villegas (SBN 179062)
2 **THE VILLEGAS LAW FIRM, APC**
3 3330 Geary Blvd. 2nd Fl West
4 San Francisco, CA 94118
5 virginia@e-licenciados.com
6 Telephone: (415) 989-8000
7 Facsimile: (415) 989-8028
8 Email: virginia@e-licenciados.com

9 IKE M. KALUDI, JR. (SBN 289576)
10 **CALIFORNIA TRIAL LAW GROUP, PC**
11 828 San Pablo Ave. Suite 109
12 Albany, CA 94706
13 Telephone: (415) 967-4900
14 Facsimile: (415) 967-4901
15 Email: service@courtlawyerca.com

16 Attorneys for Plaintiffs and the putative class

17 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF ALAMEDA**
19 **(UNLIMITED JURISDICTION)**

20 ALFREDO GARCIA, individually and on
21 behalf of others similarly situated,
22 APOLONIO PICENO PEREZ; individually
23 and on behalf of others similarly situated,
24 ROSALIA ARCE; individually and on behalf
25 of others similarly situated,

26 Plaintiffs,

27 vs.

28 UNIVERSAL BUILDING SERVICES AND
SUPPLY CO., a California corporation,
GRACE BRUSSEAU, an individual,
LEONARD BRUSSEAU, an individual, and
DOES 1 to 20, Inclusive,

Defendants.

CASE NO. RG17887036

CLASS ACTION

RESERVATION NO. 219822981001

**DECLARATION OF VIRGINIA VILLEGAS
IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: April 4, 2023

Time: 10:00 A.M.

Dept: 21

Judge: Honorable Evelio Grillo

Filed: December 22, 2017

1 I, Virginia Villegas, do hereby declare as follows:

2 1. I am an attorney duly licensed to practice in the state of California and am a principal in
3 the law firm of THE VILLEGAS LAW FIRM, APC. (hereinafter "TVLF"). I am one of the attorneys
4 of record for Plaintiffs in the above-captioned matter, and if called as a witness I could and would
5 competently testify to each of the matters stated herein.

6 2. I make this declaration in support of Plaintiffs' Unopposed Motion for Preliminary
7 Approval of Class Action Settlement.

8 **EDUCATION AND EXPERIENCE**

9 3. I am an experienced class action litigator, with particular experience in litigating similar
10 wage and hour class cases. I have been representing workers in discrimination and wage and hour cases
11 since 2001, when I started working in private practice.

12 4. TVLF specializes in class action litigation in state and federal court. A substantial
13 number of our class action cases are wage-and-hour cases, including the instant case. TVLF is regarded
14 as one of the leading small private plaintiff's firms in employment and civil-rights class actions. My
15 work in this area over the last twenty-seven years has led to favorable judgments and settlements that
16 have recouped millions of dollars for thousands of workers throughout California.

17 5. My firm represents (or has recently represented) workers in litigation in the counties of
18 Los Angeles, Marin, Kern, San Joaquin, San Luis Obispo, Sacramento, Monterey, San Benito,
19 Alameda, Contra Costa, San Francisco, Riverside, San Mateo, Yolo, Santa Cruz, Fresno, Stanislaus,
20 Napa, Santa Barbara, Santa Clara, and Sonoma. TVLF has acted or is acting as class counsel in
21 numerous cases. A partial list of the representative and wage and hour class actions that I have
22 litigated as lead or co-counsel include: *Sibaja et al. v. Plastic Industries, Inc.*, (Fresno County Superior
23 Court Case No. 21CECG01864). The matter is currently in litigation. The case involves allegations of
24 failure to pay regular and overtime wages, failure to provide compliant meal and rest periods, failure
25 to maintain accurate time and payroll records, and failure to provide accurate itemized wage
26 statements to factory workers in Defendant's Fresno and Corona facilities; *Gatlin v. Anheuser-Busch,*
27 *LLC, et al.* (Alameda County Superior Court Case RG19015524); In litigation. Involves allegations of
28 failure to pay overtime wages, failure to provide meal and rest breaks, failure to maintain accurate

1 time and payroll records to delivery drivers; *Lizarraga et al. v. Growers Choice et al.* (U.S. District
2 Court, Eastern District – Case No. 2:19-cv-00526-TLN-DB). On February 15, 2022, the federal
3 District Court granted final approval of the class action settlement for failure to pay regular and
4 overtime wages, failure to provide meal and rest periods, and failure to provide accurate itemized
5 wage statements to 480 farm workers in the amount of \$2,650,500, plus attorneys’ fees and costs. The
6 settlement is in the distribution phase. *Cruz v. Las Montañas Market, Inc.* (Contra Costa County
7 Superior Court Case No. MSC17-00330). On March 12, 2021, the Court granted final approval of a
8 class action settlement in the amount of \$1,600,000 for failure to pay regular and overtime wages,
9 failure to provide meal and rest periods, and failure to provide accurate itemized wage statements to
10 1,476 grocery store workers; *Paez, et al. v. Southern Response Services, et al.* (Sonoma Superior Court
11 Case No. SCV262199). Final Approval of class action settlement for failure to pay regular and
12 overtime wages, failure to provide meal and rest periods, and failure to provide accurate itemized
13 wage statements to laborers; *Camorlinga et al. v. ZARA USA, INC.* (Santa Clara County Superior
14 Court Case NO. 18CV332991). On August 23, 2019, the Court granted final Approval of a class
15 action settlement for failure to pay overtime wages; failure to provide meal and rest periods, and
16 failure to provide accurate itemized wage statements to misclassified department managers, assistant
17 managers, floor supervisors, and head cashiers in the amount of \$1,820,000 and benefitting 242
18 workers; *Alvarado et al. v. Foothill Packing, Inc.* (Sonoma County Superior Court Case No. SCV-
19 257496). Final approval of class action settlement for failure to pay regular, minimum wages,
20 overtime, and failure to provide meal and rest breaks to farm workers; *Molina v. Cacique, Inc.* (Los
21 Angeles County Superior Court Case No. BC603600). On January 18, 2019, the Court granted final
22 Approval of a class action settlement for failure to pay regular and overtime wages; failure to provide
23 meal and rest periods, and failure to provide accurate itemized wage statements to 26 delivery drivers
24 in the amount of \$400,000; *Chavez et al. v. RWR Construction, Inc.* (San Francisco County Superior
25 Case No. CGC-17-561618). On December 27, 2018, the Court granted final approval on a class action
26 settlement in the amount of \$600,000, where Plaintiffs alleged failure to pay regular and overtime
27 wages and failure to provide meal and rest breaks to 104 construction workers; *Zuranich et al. v.*
28 *SMRWC, Inc, d/b/a SERVICEMASTER DISASTER RESTORATION, et al.* (Alameda County Superior

1 Court Case No. RG15762941). Final approval of Class action settlement for failure to pay minimum
2 and overtime wages, and failure to provide meal and rest breaks; *DeLeon et al. v. Galaxy Desserts,*
3 *(California) Inc.*, (Contra Costa County Superior Court Case No. C15-01233). Wage and hour class
4 action settlement for failure to pay minimum and overtime wages, and failure to provide meal and rest
5 breaks to factory workers); *Meza, et al. v. S.S. Skikos Inc. dba Skiko's Trucking, et al.* (Case No. 3:15
6 CV-01889-TEH) (Northern District of California). Final approval of class action settlement for off the
7 clock work by, and failure to provide overtime compensation to, truck drivers; *Vidales et al. v.*
8 *Windset Farms (California), Inc. et al.* (Santa Barbara County Superior Court Case No. 1456106).
9 Final approval of class action settlement for failure to pay overtime wages and failure to provide meal
10 and rest breaks to farmworkers in Santa Maria); *Corona, et al. v. Plumpjack Hotels, LLC, et al.* (San
11 Francisco Superior Court Case No. CGC 13-530923). Final approval of class action settlement for
12 failure to provide meal and rest breaks and overtime wages to hotel workers; *Ochoa et al. v. Paleteria*
13 *La Michoacana* (Los Angeles County Superior Court Case No. BC455260). Wage and hour class
14 action settlement for failure to provide meal and rest breaks and overtime wages to delivery truck
15 drivers); *Martinez v. Jatco* (Alameda County Superior Court Case No. RG08397316.) Wage and hour
16 class action settlement for failure to provide meal and rest breaks and overtime wages to machine
17 operators); *Aponte v. Marquez Brothers International, Inc., et al.* (Marin County Superior Court Case
18 No. CV-060262). Final approval of class action settlement for failure to pay overtime wages and meal
19 and rest breaks to drivers and merchandizers); *Gutierrez, et al. v. McDonalds Marin* (Marin County
20 Superior Court Case No. CIV-043269). Final approval of wage and hour class action settlement for
21 failure to pay overtime and rest and meal breaks to restaurant workers; *Romero, et al. v. Cuadra*
22 *Construction, Inc.* (Case No. RG 04184739) (Alameda County Superior Court). Settlement of
23 representative action on behalf of approximately 90 electrical workers; *Sandoval v. Excel Building*
24 *Services, LLC* (Case No. CGC-05-445660) (San Francisco County Superior Court). Final approval on
25 behalf of 97 low-wage, primarily monolingual Spanish-speaking janitorial workers; *Ramirez v. Closet*
26 *Factory, Inc.* (Case No. BC337089) (Los Angeles County Superior Court). Final approval of class
27 action settlement of overtime and related wage claims for approximately 400 production and
28 installation workers.

1 6. My professional qualifications include the following:

2 a. I am a 1995 graduate of UC College of the Law, San Francisco (formerly known
3 as “UC Hastings College of Law”). I was admitted to the practice of law in California in December 1995
4 and have been practicing since then with an emphasis on individual actions, class actions and other types
5 of representative actions on behalf of low-wage and Latino immigrant workers.

6 b. In May 2001, I co-founded the firm that subsequently became known as The
7 Villegas Law Firm, APC. My firm has been a plaintiffs-side firm dedicated exclusively to representing
8 workers in wage and hour class actions, employment discrimination, and related civil rights matters.

9 c. Prior to co-founding my firm, I worked at La Raza Centro Legal, Inc. (“Centro
10 Legal”), a non-profit, public interest law firm located in San Francisco, California. I started working at
11 Centro Legal as a Jesuit volunteer in August 1995. Later, as an attorney there, I represented low-income
12 and Latino workers who looked to Centro Legal for help in asserting their workplace rights. Between
13 August 1996 and May 2001, I was the Project Coordinator of the Workers’ Advocacy Project, a
14 specialized unit of Centro Legal that handled all employment law related matters. At Centro Legal, I
15 assisted over 500 clients recover their unpaid wages. I represented clients before the State Labor
16 Commissioner in over 50 hearings, of which I was successful in recovering my client’s wages in all but
17 two cases. I also represented clients before the California Department of Fair Employment and Housing
18 and the Federal Equal Employment Opportunities Commission.

19 d. For the past 27 years, my law practice has been devoted to representing workers
20 in wage and hour class actions and other employment and civil rights matters. I was named as a Northern
21 California Super Lawyer in 2019, 2020, 2021, 2022, and 2023.

22 e. I am fluent in Spanish and I am frequently interviewed by the local Spanish
23 broadcast television news networks Telemundo and Univision regarding recent developments in
24 employment law that impact low wage and immigrant workers in California.

25 f. I am a regular guest lecturer at UC College of Law, San Francisco’s Individual
26 Representation Clinic and have been a guest lecturer and panel discussion member on the topic of
27 representing low wage earners in civil rights litigation at various professional conferences, with the most
28 recent in May 2022 .

1 g. Since the Spring of 2015, I have been an adjunct professor at UC College of Law,
2 San Francisco, teaching Interviewing and Counseling Clients and coaching the UC College of Law's
3 Client Counseling Team.

4 h. I have been asked to provide testimony before the California State Assembly's
5 Labor and Employment Committee regarding proposed legislation that impacts California workers.

6 i. I am the Chair of the Board of Directors of the California Rural Legal Assistance
7 Foundation, and I am also a member of the California Employment Lawyers Association, the San
8 Francisco Trial Lawyers Association, the National Employment Lawyers Association, the SF Bay Area
9 Labor & Employment Committee of the National Lawyers Guild, and the Consumer Attorneys of
10 California.

11 j. I am also a Volunteer Attorney with Legal Aid at Work's (formerly known as
12 Legal Aid Society Employment Law Center) Workers' Rights Clinic, where free and confidential
13 information is provided to workers about their legal rights as well as the steps they can take to protect
14 and assert those rights.

15 k. I have taught workers' rights classes at the City College of San Francisco.
16 Additionally, I have conducted workers' rights presentations at various community organizations in the
17 Bay Area to educate workers about their employment and labor rights.

18 l. During the Fall 2011 Semester I also served as a Visiting Clinical Professor at
19 Golden Gate University's Women's Employment Rights' Clinic. Under my supervision, law students
20 advised, counseled, and represented clients in a variety of employment-related matters, including wage
21 and hour violations, discrimination, and unemployment insurance benefits.

22 **PROCEDURAL HISTORY**

23 7. On November 1, 2017, prior to filing their civil complaint, Plaintiffs served Defendants
24 with a demand letter alleging that Defendants willfully and knowingly engaged in conduct that violated
25 the California Labor Code and wage and hour regulations and asserted such claims on behalf of
26 themselves and other similarly situated employees, who worked for Defendants throughout California.
27 The demand letter also included a request for Plaintiffs' personnel files, Plaintiffs' wage statements, and
28 documents relating to Plaintiffs' obtaining and retaining employment. Defendants responded to the

document request included in the demand letter on December 1 and December 4, 2017, and produced Plaintiffs' personnel and employment records.

8. On October 18, 2017, Plaintiffs also provided notice to the Labor & Workforce Development Agency ("LWDA") to comply with the statutory exhaustion requirements of Labor Code Section 2699.3, in the event they decided to pursue penalties pursuant to the Private Attorney General Act. On December 22, 2017, Plaintiffs filed their original Complaint that included nine causes of action against Defendants: (1) Failure to Provide, Authorize, Permit and/or Make Available Meal and Rest Periods; (2) Failure to Compensate for All Hours Worked; (3) Failure to Pay Overtime & Double-Time Wages; (4) Failure to Reimburse for Necessary Business Expenditures; (5) Unpaid Wages and Waiting Time Penalties; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Maintain Accurate Time and Payroll Records; (8) Individual Liability for Labor Code Violations under §558.1; (9) Violation of California Business and Professions Code § 17200, *et. seq.*

9. On October 19, 2018, Defendants filed their Answer to Plaintiffs' Complaint making a general denial and asserting 27 affirmative defenses.

10. On January 19, 2023, the parties filed a stipulation for leave for Plaintiffs to file a First Amended Complaint ("FAC"), that encompasses and includes a PAGA cause of action seeking penalties for all the underlying claims alleged in the Complaint and as set forth in the letter to the LWDA prior to this lawsuit and the subsequent letter filed with the LWDA on October 24, 2022. The amended complaint was filed for the purpose of facilitating this Settlement on a global basis that includes release of PAGA penalties from August 19, 2021 (one year back from when the parties reached an agreement in principle) through the date of preliminary approval. Defendants filed an Answer to the FAC on February 16, 2023.

INVESTIGATION & DISCOVERY

11. The parties engaged in extensive, hard fought, and protracted written discovery and depositions that were ongoing up to the point of settlement. On October 10, 2018, Plaintiffs served all Defendants with written discovery, including form and special interrogatories and requests for production of documents. After several meet and confer discussions and exchange of email correspondence with Defendants' counsel, the parties agreed to attend mediation, and Plaintiffs agreed to stay formal discovery on the condition that Defendants would agree to provide a sampling of time

1 and payroll records of 20 percent of the Class that would be sufficient to allow Plaintiffs to prepare a
2 damage analysis. Defendants provided Plaintiffs' counsel with a limited sampling of time and payroll
3 records and generally provided only one pay period for hundreds of Class members that covered 8 pay
4 periods (July 16-31, 2014; November 1-16, 2014; March 1-15, 2015; October 16-31, 2015; Jan. 16-31,
5 2016; May 16-31, 2016; May 1-15, 201; September 16-30, 2017) during the Class Period. Ultimately,
6 Plaintiffs were unable to use the records provided to effectively prepare an accurate damage analysis.
7 Defendants claimed that Plaintiffs' counsel simply did not understand the records. Consequently, the
8 first mediation that took place on September 24, 2019, was unsuccessful.

9 12. While the first mediation was unsuccessful, Plaintiffs agreed that they would continue to
10 stay the formal written discovery requests propounded on Defendants, and Defendants agreed that by
11 the end of November 2019, they would produce a more comprehensive sampling and that the parties
12 would then consider returning for a second day of mediation.

13 13. On November 14, 2019, Plaintiffs' counsel informed Defendants counsel that they would
14 like to set the depositions of Dario DeVincenzi, Jesus Millan, Richard Salles, and Leonard Brusseau in
15 late January 2020. However, Plaintiffs got no response from Defendants.

16 14. On February 6, 2020, Defendants produced additional documents. The parties also then
17 began to meet and confer about attending a second day of mediation. However, after the July 30, 2020,
18 CMC the parties agreed that returning to a second day of mediation would not make sense because of
19 the diametrically opposed views of the merits of this action.

20 15. On November 6, 2020, Plaintiffs resumed formal discovery and the parties also began
21 discussing the preparation of a mutually agreeable *Bel Aire* Notice and/or seeking the Court's
22 intervention if the parties were unable to agree to the language.

23 16. In December 2020, Plaintiffs granted Defendants' request for an extension to January 18,
24 2021, to respond to Plaintiffs' discovery requests and Defendants asked for another extension to January
25 29, 2021, to respond to Plaintiffs' discovery requests, which Plaintiffs granted.

26 17. On January 29, 2021, Defendants served discovery responses to Plaintiffs' Special
27 Interrogatories, Request for Production of Documents, Form Interrogatories – General and Employment
28 but did not serve any documents. Additionally, the discovery responses indicated that Defendants would

1 be producing some documents, and that additional information and documents would be produced *after*
2 the *Bel Aire* Notice process.

3 18. On January 31, 2021, another CMC was scheduled, and the parties informed the Court
4 in the Joint CMC statement that the parties were working on a mutually agreeable *Bel Aire* Notice and
5 meeting and conferring about Defendants' discovery responses.

6 19. On February 26, 2021, Defendants served Plaintiffs with *only* Plaintiffs' employment
7 records, but nothing related to other Class Members.

8 20. On March 4, 2021, Plaintiffs asked Defendants for an extension to file a motion to compel
9 further discovery responses, if necessary, until 30 days after the supplemental information and document
10 production they indicated would be produced after the *Bel Aire* Notice process, and Defendants agreed.

11 21. After multiple exchanges of correspondence and several versions of the *Bel Aire* Notice,
12 the Notice was finalized on April 10, 2021, and Plaintiffs forwarded it to the claim administrator.
13 Defendants provided the class member contact information to the claim administrator on May 7, 2021,
14 and the *Bel Aire* Notice went out on May 18, 2021. Class members were given to June 21, 2021, to opt
15 out. After the deadline, Plaintiffs received the class list on July 9, 2021.

16 22. Following receipt of the class list on July 9, 2021, Plaintiffs' counsel began contacting
17 the over 1700 class members on the list, through telephone and via U.S. mail and ultimately reached
18 hundreds of class members and obtained over 40 signed declarations.

19 23. On July 19, 2021, Plaintiffs' counsel followed up with Defendants' counsel about the
20 supplemental documents and information they stated would be produced after the *Bel Aire* Notice
21 process and requested the supplemental information and documents by August 21, 2021. Defendants'
22 counsel requested an extension to August 27, 2021, which Plaintiffs granted.

23 24. On August 10, 2021, the parties filed a Joint CMC statement informing the Court of the
24 status of discovery, the *Bel Aire* Notice, and anticipated supplemental production from Defendants
25 following completion of the *Bel Aire* Notice.

26 25. On August 17, 2021, Plaintiffs' counsel received notice of substitution of counsel from
27 Defendants' new counsel. On August 25, 2021, counsel for Plaintiffs and Defendants' new counsel had
28 a meet and confer call to discuss the status of the case and Defendants' outstanding supplemental

1 production. Following the call, Defendants' counsel asked for another extension to September 24, 2021,
2 to provide the supplemental responses, and Plaintiffs agreed. After multiple requests for extensions, on
3 January 20, 2022, Defendants provided the supplemental responses and produced over 17,000
4 documents of time and pay data for approximately 130 employees.

5 26. In August 2021, the parties began to meet and confer about depositions and ultimately,
6 after multiple exchanges of correspondence, Plaintiffs' depositions began in January 2022 and continued
7 through March 2022 with all three Plaintiffs sitting for two depositions each. Plaintiffs deposed 7 of
8 Defendants management employees, plus the PMK that was deposed prior to the first mediation in this
9 matter for a total of 11 days of depositions.

10 **MEDIATION, DIRECT NEGOTIATIONS AND SETTLEMENT**

11 27. Counsel for Plaintiffs and Defendants had significant discussions about settlement,
12 exchanged extensive information regarding the facts of the case and the parties' respective positions
13 on the applicable law, conducted extensive and hard-fought discovery to inform the parties'
14 understanding of the claims and risks involved, attended two mediations and continued direct
15 negotiations following the failed second mediation. As result of those continued negotiations over
16 several months via telephone and email, the parties were able to reach an agreement to resolve their
17 disputes which is embodied in the Stipulation of Settlement that was ultimately executed by the parties
18 on December 7, 2022, and later amended to comply with this Court's rulings related to PAGA
19 releases, and executed on February 5, 2023.

20 28. The investigation, discovery, and analysis Plaintiffs' counsel conducted allowed them
21 to make a realistic assessment of the merits and defenses of the Class claims and risks. The terms of
22 the Settlement are premised on objective evidence that has been weighed in light of the risks and
23 expense of continued litigation.

24 **DAMAGE ANALYSIS AND REASONABLENESS OF SETTLEMENT**

25 29. Plaintiffs' counsel devoted a significant amount of time and resources towards
26 investigation and discovery and performed an analysis of the time and payroll data, including
27 thousands of pages of time and payroll data reports, and check stubs for class members and Plaintiffs,
28 and other records pertaining to the claims asserted by Plaintiffs as they pertain to them and

1 approximately 2000 other putative class members. The Parties engaged in significant written
2 discovery, including form and special interrogatories, and request for production of documents and
3 obtained significant deposition testimony. As set forth in greater detail in the Settlement Agreement
4 attached hereto as **Exhibit 1**, the proposed Settlement satisfies all of the criteria for preliminary
5 settlement approval under California law and falls well within the range of reasonableness.

6 30. The Parties also engaged in thorough research and analysis of the applicable law and
7 potential defenses, and carefully assessed the risks of costs of further litigation.

8 31. Plaintiffs base their damages analysis on the review and audit of time and payroll
9 records produced by Defendants in response to Plaintiffs' Request for Production of Documents,
10 deposition testimony, documents obtained through the Bel Aire Notice process, and information
11 obtained during their investigation, including interviews of over 100 class members and Plaintiffs.
12 Defendants also provided a class list that included the names of the potential class members and
13 contact information. Plaintiffs' damages analysis specifically included calculations for: (1) backpay
14 for previously earned, but unpaid regular and overtime wages; (2) missed meal premiums; (3)
15 premiums for missed rest periods; (4) penalties for non-compliant itemized wage statements; (5)
16 waiting time penalties; (6) interest on unpaid wages and rest and meal premiums; PAGA penalties.

17 32. Plaintiffs calculated the damages based on a combination of pay periods, wage, and
18 payroll data produced by Defendants, deposition testimony, and information obtained from Plaintiffs
19 and over 100 class members interviewed for the class period that dates back four years from the filing
20 of the original complaint.

21 33. Plaintiffs' Counsel used the data provided by Defendants and information obtained
22 from Plaintiffs and class members interviewed, to calculate the average amount of unpaid hours per
23 pay period. Based on the average number of unpaid hours, the unpaid wages owed (including resulting
24 overtime) to Plaintiffs and the other class members were then projected using the number of pay
25 periods each person worked during the class period and multiplied by each class members' hourly rate
26 as provided by Defendants in the class list.

27 34. Based on the information obtained from class members and analysis of the documents
28 and the payroll data provided by Defendants, Plaintiffs' counsel found the following: Workers were

1 paid twice per month with a total of 24 pay periods per year. There are approximately 2000 class
2 members. Of those 2000, approximately 1252 were former employees. Class members worked
3 different number of pay periods during the class period and the number of pay periods they worked
4 was calculated based on their dates of employment within the class period. Defendants did not
5 maintain contemporaneous time records and generated pre-populated documents that repeatedly
6 showed the identical start and end time, day after day, month after month, and sometimes year after
7 year, which Class Members were required to review and verify at the end of the pay period.

8 35. Class Members, including Plaintiffs allege that they routinely worked between .5 hours
9 to 2 to 3 hours of uncompensated time each workday which sometimes resulted in working OT hours.

10 36. Nevertheless, a very conservative approach was taken in calculating unpaid wages for
11 the Class. Plaintiffs calculated an average of 3.5 hours of unpaid hours per paid period. That
12 calculation was based on a class member working 1.75 hours of unpaid time 2 days of each pay period
13 they worked. This is conservative because some pay periods have up 12 days. As such, it takes into
14 consideration the possibility that class members did not work 5 days per week nor worked unpaid
15 hours. However, according to Defendants' deposition testimony 75-80% of the Class Members work 5
16 days per week. Further, for those class members that were scheduled for 8 hours of regular time but
17 worked additional uncompensated time, that would have triggered overtime wages.

18 37. Based on this average of unpaid time, Plaintiffs' counsel calculated the unpaid regular
19 and overtime wages owed to each class member.

20 38. None of the interviewees entitled to meal periods reported taking compliant meal
21 periods. Plaintiffs alleged that Defendants failed to authorize or permit Plaintiffs and the Class to take
22 full 30-minute meal periods, on days they worked over five hours because they scheduled and paid
23 Class Members for less hours than it actually took them to perform their duties. As such, Plaintiffs
24 allege that Class Members were forced to skip meal periods in order to complete their work. Further,
25 Defendants' time records show that Class Members were not even provided a second meal period
26 when they were scheduled to work more than 10 hours in a day. Nevertheless, Plaintiffs
27 conservatively calculated 5 missed meal periods per pay period (and some pay periods include up to
28 12 days) at the reported hourly rate.

1 39. None of the interviewees entitled to rest periods reported taking compliant rest periods.
2 Plaintiffs alleged that Defendants failed to authorize or permit Plaintiffs and the Class to take required
3 rest periods on days they worked 3.5 hours or more because they scheduled and paid Class Members
4 for less hours than it actually took them to perform their duties. As such, Class Members were forced
5 to skip rest periods in order to complete their work. Nevertheless, Plaintiffs conservatively calculated
6 3 missed rest periods per pay period (and some pay periods include up to 12 days) at the reported
7 hourly rate.

8 40. Plaintiffs alleged that Defendants regularly failed to compensate Plaintiffs and the Class
9 for all hours worked, failed to pay premiums for missed or non-compliant meal and rest premiums,
10 and accordingly failed to include all hours worked and wages paid on Plaintiffs' and the Class's
11 itemized wage statements, resulting in Labor Code § 226 violations. These penalties were calculated
12 for each pay period for those workers employed as of December 2016 (one year back from the filing
13 of the complaint). Based on the Class list, 845 Class Members are not eligible for 226 penalties
14 because they were no longer employed as of December 2016. Plaintiffs' counsel then calculated \$50
15 for the initial violation and \$100 for each subsequent violation. Where the total exceeded \$4000, the
16 penalties were limited to the maximum allowed.

17 41. Plaintiffs alleged that Defendants regularly failed to compensate Plaintiffs and the Class
18 for all hours worked and failed to pay premiums for missed or non-compliant meal and rest premiums.
19 Accordingly, all former employees are entitled to Labor Code § 203 penalties for failure to pay all
20 wages due at the time of separation from employment. These penalties were conservatively calculated
21 for 1252 (assuming they were owed any wages) former employees at 8 hours per day and did not
22 include overtime, for 30 days at Class Members' hourly final rate of pay as provided by Defendants.

23 42. Although a PAGA cause of action was not included in the original complaint, Plaintiffs
24 had exhausted their administrative remedies by filing a letter with the LWDA in October 2017.
25 During negotiations the parties agreed to resolve the matter on a global basis including any possible
26 PAGA claims that could have been brought. As such, as part of the settlement, the parties agreed that
27 Plaintiffs would amend the complaint to add a PAGA cause of action.

28 43. In evaluating the potential PAGA penalties, Plaintiffs relied on the information

obtained during discovery regarding the number of employees that Defendants employ at one time, which is approximately 600. However, based on records produced and on interviews with class members, some class members worked as little as two hours per day and therefore did not accrue overtime, nor were entitled to meal or rest periods. As such, they potentially were not subjected to Labor Code violations that would also give rise to PAGA penalties.

44. Conservatively assuming that a ¼ of the employees were not subjected to PAGA penalties, Plaintiffs calculated the number of pay periods the other 450 employees could potentially have worked during the one-year PAGA period which was calculated from August 19, 2021, to August 19, 2022, when the parties reached an agreement in principle, which is 10,800 pay periods. This total assumes that the 450 employees worked every pay period in the covered year and that each violation occurred each pay period. Accordingly, Plaintiffs calculated PAGA penalties as follows:

- Labor Code § 226.3 penalties (failure to provide accurate wage statements pursuant to Labor Code § 226) – at the initial violation rate of \$250 per pay period per aggrieved employee pursuant to Labor Code § 226.3, totaling approximately \$2,700,000.
- Labor Code § 1174 penalties (failure to maintain accurate time and payroll records) – at the initial violation rate of \$100 per pay period pursuant to Labor Code § 2699(f), totaling approximately \$1,080,000.
- Labor Code § 558 penalties (failure to pay off-the-clock wages, OT, meal and rest premiums, and untimely payment of all wages in violation of Labor Code §§ 1194, 510, 1198, and 201-203) – at the initial violation rate of \$50 per pay period pursuant to Labor Code § 558, totaling approximately \$540,000.
- Labor Code §§ 512 and 226.7(a) (failure to provide compliant meal and rest periods) – at the initial violation rate of \$100 per pay period, pursuant to Labor Code § 2699(f), totaling approximately \$1,080,000.

45. Based on this analysis, Plaintiffs used the following “soaking wet” numbers for negotiations:

<u>Unpaid regular and overtime wages:</u>	\$3,035,034.52
<u>Unpaid meal premiums:</u>	\$4,335,763.60

<u>Unpaid rest premiums:</u>	\$2,601,458.16
<u>Itemized Wage Statement Penalties:</u>	\$2,006,150.00
<u>Waiting Time Penalties:</u>	\$2,982,002.40
<u>Interest on Unpaid Wages:</u>	\$303,503.45
<u>Interest on unpaid premiums:</u>	\$485,605.52
TOTAL:	\$16,320,514.19
<u>PAGA Penalties:</u>	\$5,400,000.00
COMBINED TOTAL:	\$21,720,514.19

46. These figures assumed complete success on every claim and penalty claim, and that every claim would be certified. It also assumed that the Court would award the maximum penalties allowed.

47. Plaintiffs' damages analysis provided a starting point for negotiations. The final settlement amount takes into account the information provided and arguments made by Defendants and the experienced mediators, substantial risks inherent in any wage-and-hour case, the likelihood that certain claims would not be certified, the adequacy of the named Plaintiffs, the likelihood that the Court would reduce the amount of any PAGA penalties awarded, as well as the specific defenses asserted by Defendants.

48. As negotiations progressed, counsel began factoring in the risk associated with a case of this type involving unpaid regular and overtime wages based on off-the-clock hours, allegations of non-compliant meal and rest break claims that would rise or fall if a fact finder finds that the records maintained and produced by Defendants are to be relied upon even though Plaintiffs and class members allege they are inaccurate and unreliable.

49. Defendants also argued that there was no uniform policy or practice of failing to pay all wages owed or failing to provide meal and rest periods susceptible to resolution on a classwide basis given the written policies provided to the Class members. Defendants further assert that there is no duty to record rest periods, so class members' failure to clock in or out for all rest periods does not prove any violations. Moreover, Defendants also assert that each Plaintiff testified that no one at UBS prohibited them from taking their meal breaks, that Plaintiffs confirmed that they were unsupervised

1 while performing their job duties, so there was no supervisor there telling them they could not take
2 their break and that each testified it was their own decision not to take the break during each shift.
3 Also, Defendants assert that Class Members were required to review and sign attestations stating they
4 were afforded the opportunity to take their breaks and if they did not take their breaks they were
5 expected to report it at the time. Defendants have also represented that they have numerous
6 declarations from Class Members who attest that not only were they paid for all time worked and
7 received overpayments from UBS, but also that they were provided with compliant meal and rest
8 periods. If the off-the-clock and meal and rest violations failed, the resulting penalties and interest
9 would also fail.

10 50. Broadly, Defendants deny all of the claims, contentions, and each and every allegation
11 made by Plaintiffs and deny that any alleged conduct was willful on their part. Defendants further
12 contend that Plaintiffs are not proper class representatives and will not be able to certify or prevail on
13 their claims. Defendants argue that this case is not suitable for class treatment and that they fully
14 complied with their legal obligations with respect to the payment of wages, maintenance of accurate
15 time and payroll records, provision of meal and rest breaks and that they provided compliant itemized
16 wage statements.

17 51. As a result of this, counsel throughout the negotiations factored in the various risks to
18 Plaintiffs and the putative class members and the numbers exchanged reflected these considerations.

19 52. While Plaintiffs' counsel is confident that Plaintiffs would succeed on liability,
20 continued litigation would be even more costly and more time-consuming than it already has been,
21 with no guarantee of a successful outcome.

22 53. If litigation were to proceed, Plaintiffs would be required to conduct further discovery,
23 move for class certification, establish class-wide liability, and then prove up various issues regarding
24 damages. Such efforts would also require expending even more resources, would necessitate expert
25 witness testimony and significant additional litigation. As to the PAGA claims, the Court could
26 exercise its discretion to reduce or eliminate PAGA penalties. By contrast, the Settlement herein
27 ensures timely relief and substantial recovery of the wages, premiums, and penalties Plaintiffs contend
28 are owed to the Settlement Class.

1 54. Based on Plaintiffs' counsel's experience as class action attorneys, the risks associated
2 with these issues make class certification uncertain. Accordingly, throughout the negotiations,
3 Plaintiffs and their counsel factored in the various risks to their claims and those of the putative class;
4 and the numbers exchanged throughout the mediations and negotiations reflected these considerations.
5 The final settlement amount takes into account the substantial risks inherent in any wage-and-hour
6 class action, as well as the specific defenses asserted by Defendants.

7 55. Plaintiffs recognize the risk of prevailing on class certification or establishing a trial
8 plan to show common liability. Considering Defendants' arguments, Plaintiffs recognize there is a risk
9 that class certification may not be granted outside the settlement context. For example, much
10 consideration was given to the sampling of employee payroll and time records. The variability of
11 violations across the sample size revealed a potential issue in prevailing on class certification.
12 Similarly, the sampling of employee records and high turnover of employees posed a serious risk that
13 employees would be difficult to locate as the matter approached trial. Also, Defendants claim that they
14 were prepared to submit numerous declarations from Class Members refuting Plaintiffs' claims and
15 supporting Defendants' position that the claims were not certifiable and lacked merit. Further,
16 Plaintiffs off-the-clock claims are dependent on a trier of fact accepting Plaintiffs' position that
17 Defendants' records are unreliable and should not be considered.

18 56. In summary, weighing all of these factors, Plaintiffs came to the following conclusions
19 as to each claim in deciding whether to accept the settlement:

20 Unpaid overtime premiums

21 Given the broader risks to class certification and success on the merits, delays, and potential
22 collection issues that could result from further litigation,— as well as Defendants' specific arguments
23 that Plaintiffs and the class were properly paid and that the time records produced showing no unpaid
24 wages were accurate, that Class Members were afforded an opportunity to review and confirm the
25 hours worked for each pay period, some attested that they received overpayments from UBS for when
26 they left a shift early, and that the fact that Class Members worked different schedules and days and
27 that therefore their claims are not susceptible to class wide resolution – Plaintiffs still believe this is
28 their strongest claim, but nonetheless has substantial risks, and the potential offsets for overpayments

1 to Class Members, so decided it was fair and reasonable to only discount this claim to approximately
2 50% of its “soaking wet” value, or about \$1,517,517.26.

3 Unpaid meal premiums

4 Given that some class members interviewed indicated they worked less than 8 hours and that
5 Defendants assert that each Plaintiff testified in their deposition that no one at UBS prohibited from
6 taking their meal breaks, that they were unsupervised while performing their work and that Class
7 Members were required to review and sign attestations stating they were afforded the opportunity to
8 take their breaks or otherwise report they were not, and there are broader risks to class certification
9 and success on the merits (particularly on meal and rest period claims), delays, and collection issues
10 that could result from further litigation, and that this claim falls or rises on whether or not Plaintiffs
11 are successful in proving that the time records produced are inaccurate and unreliable – Plaintiffs
12 decided it was reasonable to discount the meal period claim to approximately 25% of its “soaking
13 wet” value, or about \$1,083,940.90.

14 Unpaid rest premiums

15 Given that rest periods are not required to be recorded and that some time records produced by
16 Defendants showed some class members working as little as two hours per day, there are broader
17 risks to class certification and success on the merits (particularly on meal and rest period claims
18 considering that Defendants assert that each Plaintiff testified that they were not prohibited by anyone
19 at UBS from taking their breaks and that it was their own decision not to take breaks every shift, and
20 that Class Members were required to review and sign attestations stating they were afforded the
21 opportunity to take their breaks or otherwise report that they were not), delays, and collection issues
22 that could result from further litigation, and that this claim falls or rises on whether or not Plaintiffs
23 are successful in proving that the time records produced are inaccurate and unreliable as well as
24 specific arguments from Defendants that there is no duty to record rest periods, so class members’
25 failure to clock in or out for all rest periods does not prove any violations – Plaintiffs decided it was
26 reasonable to discount the rest period claim to approximately 15% of its “soaking wet” value, or
27 about \$390,218.72.

28 Labor Code Section 226 Wage Statement Penalties

Given the broader risks to class certification and success on the merits, delays, and collection issues that could result from further litigation, and that success on this claim is dependent on success of the underlying claims, Plaintiffs decided that this claim had a value of 25% or approximately \$745,500.60.

Given the reassessed value of the unpaid overtime and meal and rest premiums claims, Plaintiff decided it was reasonable to base the prejudgment interest on this value, resulting in about \$254,942.90 in prejudgment interest.

As to PAGA penalties, Defendants argue that the penalties would depend on the success of Plaintiffs' substantive claims, and that even if Plaintiffs succeeded on those claims, the Court has discretion under Labor Code section 2699(e)(2) to reduce or eliminate PAGA penalties based on the facts and circumstances of the particular case. In particular, the Court could determine that the penalties were duplicative of the underlying claims or were excessive or confiscatory. Thus, Plaintiffs decided that given the risk that the Court might not award any PAGA penalties even if Plaintiffs successfully proved their underlying claims, Plaintiffs believed \$50,000 was a fair value for the PAGA claims. Thus, the total reassessed value of all the claims is \$4,543,657.88.

58. Plaintiffs' counsel spent a significant amount of time researching the law and facts. In light of the analysis of the information learned during this process, Plaintiffs' counsel is of the opinion that this Settlement is fair, reasonable, and adequate, and in the best interest of the Class.

DECLARATION OF VIRGINIA VILLEGAS ISO UNOPPOSED MOTION FOR PRELIMINARY APPROVAL
Garcia, et al. v. Universal Building Services and Supply Co., et al. Case No. RG17887036

SUMMARY OF SETTLEMENT

59. Recognizing the critical opportunity to resolve the matter for the benefit of both the putative class and Defendants, the settlement negotiations were non-collusive, adversarial, and at arm's length, as required for appropriate class action settlements. Plaintiffs, the class and its counsel, on the one hand, and Defendants and their counsel, on the other hand, agree that the settlement is fair and equitable to both sides.

60. The Net Settlement Amount of \$2,187,225.00 derived from the Gross Settlement Amount of \$3,550,000 is fair and just relief to all Settlement Class Members. According to Defendants' records, the Settlement Agreement covers approximately 2000 Settlement Class Members, including Plaintiffs.

61. Because the approximately 2000 Settlement Class Members did not earn the same wage rate nor work the same number of workweeks during the covered period, the Net Settlement Amount will be divided based on their weeks worked. If the Net Settlement Amount were to be divided equally each would receive approximately \$1093.61, less required payroll taxes.

SERVICE AWARD

62. The proposed class representatives, Alfredo Garcia, Apolonio Piceno Perez, and Rosalia Arce have at all times been willing and able to aggressively and competently assert the interests of the Settlement Class members.

63. Plaintiffs were formerly employed by Defendants. Plaintiffs have taken an extraordinary step to challenge their former employer's actions by bringing this action. They did so in the belief that they, and the members of the Class, were, in fact, entitled to the relief sought in this case. Plaintiffs' actions have resulted in a substantial recovery for the members of the Class.

64. Moreover, the additional compensation for providing a complete release of all claims, including a 1542 waiver, is well justified as Plaintiffs took on the burden of litigating this case and exerted a significant amount of time in attending meetings with their lawyers, attending two mediations, sitting for two days of depositions each, helping to located class members, and carrying all the burdens of litigating it while others were reluctant or unwilling to come forward to assist them in pursuing their claims.

65. Plaintiffs fully participated in the analysis and planning of this action throughout the pendency of the litigation.

66. They responded to written discovery, helped with counsel's investigation of other potential class members, sat for two days of depositions each, and were closely engaged in the nature and extent of settlement discussions, and thoughtfully approved multiple rounds of negotiations and the ultimate settlement with Defendants.

67. Throughout this litigation, Plaintiffs worked with their counsel regarding the claims against Defendants, produced substantial information and documents relevant to the action, provided lengthy responses to inquiries and questions, and attended several lengthy meetings with counsel.

68. They were committed to staying involved by requesting periodic updates and status reports.

69. In my experience, employees who sue their employers are particularly vulnerable to retaliation. Given the ease with which prospective employers can run a background check, including a simple internet search for court records, filing a lawsuit against an employer can negatively impact future employment opportunities. Plaintiffs in employment actions can be blacklisted by prospective future employers who perceive them as "trouble makers." For these reasons, many employees are understandably unwilling to risk jeopardizing their future employment by complaining about their employer's unlawful practices, much less by filing a class or representative lawsuit against their employer on behalf of their fellow employees.

70. In addition, the Settlement requires plaintiffs to provide a general release of all claims against Defendants, which includes a waiver of unknown claims and their rights under Civil Code § 1542. Plaintiffs have thus sacrificed significantly more than the other Class Members.

ATTORNEYS' FEES AND COSTS

71. With regard to Class Counsel's fees, Class Counsel requests a common fund fee equal to thirty-three and a third percent (33.3%) of the Total Gross Settlement Amount, or \$1,182,150.00. That sum accounts for all of the services provided by Class Counsel in this case including: meeting with, explaining documents to the Plaintiffs; preparing the demand letter, preparing the initial and subsequent letter to the LWDA, conducting substantial informal and formal discovery, including defending 2 days

1 each of Plaintiffs' depositions, and taking eleven days of depositions of Defendants' management
2 employees and person most knowledgeable; investigation and interviewing Plaintiffs and class
3 members; drafting the original and First Amended Complaint; reviewing Defendants' policies and
4 procedures produced in discovery, reviewing time and payroll records and preparing and revising
5 damage analyses; attending two mediations and directly negotiating with Defendants' counsel via
6 telephonic and email communications to reach this Agreement; preparing a stipulation and order seeking
7 leave to file an amended complaint, preparing an ex parte and noticed motion seeking the appointment
8 of a representative for Apolonio Piceno Perez, drafting and revising the Settlement Agreement itself;
9 drafting and revising this Motion, and any and all work that will be required to implement the Settlement
10 (assuming that it is preliminarily approved).

11 72. TVLF's current lodestar for hours expended on the litigation is \$998,250.30. Along with
12 co-counsel's lodestar, total Class Counsel's current lodestar is currently \$1,380,970.30. This amount
13 will increase for preparation of the final approval papers, preparation and attendance at any remaining
14 hearings, correspondence and communications with Settlement Class Members, and settlement
15 administration and oversight.

16 73. TVLF's costs to date are \$23,641.98 and will increase after the filing of this motion and
17 the final approval motion. Along with Class Counsel's costs, the costs are currently \$72,950.43 and will
18 be capped at \$75,000. They are also recoverable from the Total Gross Settlement Amount.

19 74. Given the current lodestar and costs, the amount of attorney's fees and costs sought, and
20 that will be fully briefed and addressed at final approval, are imminently reasonable.

21 I declare under penalty of perjury under the laws of the state of California that the foregoing is
22 true and correct.

23 Executed on March 9, 2023, in San Francisco, California.

24
25 
26 VIRGINIA VILLEGAS
27
28

INDEX TO EXHIBITS

EXHIBIT 1	AMENDED JOINT STIPULATION AND SETTLEMENT AGREEMENT OF CLASS ACTION AND PAGA CLAIMS WITH NOTICE MATERIALS (EXH. A)
-----------	--

EXHIBIT 1

1 Virginia Villegas, Bar No. 179062
virginia@e-licenciados.com
2 THE VILLEGAS LAW FIRM, APC
3330 Geary Blvd., 2nd Fl. West
3 San Francisco, California 94118
Telephone: 415.989.8000
4 Fax No.: 415.989.8028

5 Ike M. Kaludi, Bar No. 289576
service@courtlawyerca.com
6 CALIFORNIA TRIAL LAW GROUP, PC
828 San Pablo Avenue, Suite 109
7 Albany, California 94706
Telephone: 415.967.4900
8 Fax No.: 415.967.4901

9 Attorneys for Plaintiffs and the Putative Class

10 *(Additional counsel on following page)*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF ALAMEDA
13

14 ALFREDO GARCIA, individually and on behalf
of others similarly situated; APOLONIO PICENO
15 PEREZ, individually and on behalf of others
similarly situated; and ROSALIE ARCE,
16 individually and on behalf of others similarly
situated,

17 Plaintiffs,

18 v.

19 UNIVERSAL BUILDING SERVICES AND
20 SUPPLY CO., a California corporation; GRACE
BRUSSEAU, an individual; LEONARD
21 BRUSSEAU, an individual; and DOES 1 to 20,
inclusive,

22 Defendants.
23

Case No. RG17887036

ASSIGNED FOR ALL PURPOSES TO
JUDGE HON. EVELIO GRILLO, DEPT. 21

**PLAINTIFFS ALFREDO GARCIA,
APOLONIO PICENO PEREZ, AND
ROSALIA ARCE, AND DEFENDANTS
UNIVERSAL BUILDING SERVICES
AND SUPPLY CO., GRACE BRUSSEAU,
AND LEONARD BRUSSEAU'S
AMENDED JOINT STIPULATION AND
SETTLEMENT AGREEMENT OF
CLASS ACTION AND PAGA CLAIMS**

Trial Date: June 12, 2023
Complaint Filed: December 22, 2017

1 Alan S. Levins, Bar No. 57612
alevins@littler.com
2 William A. Cosmopulos, Bar No. 312908
bcosmopulos@littler.com
3 LITTLER MENDELSON, P.C.
333 Bush Street, 34th Floor
4 San Francisco, California 94104
Telephone: 415.433.1940
5 Fax No.: 415.399.8490

6 Luis E. Lorenzana, Bar No. 248162
llorenzana@littler.com
7 LITTLER MENDELSON, P.C.
501 W. Broadway, Suite 900
8 San Diego, California 92101
Telephone: 619.232.0441
9 Fax No.: 619.232.4302

10 Attorneys for Defendants
UNIVERSAL BUILDING SERVICES AND SUPPLY
11 CO., GRACE BRUSSEAU, AND LEONARD
BRUSSEAU
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 This Amended Joint Stipulation and Settlement Agreement of Class Action and PAGA Claims
2 (“Stipulation of Settlement” or “Settlement” or “Settlement Agreement”) is made and entered into by
3 and between (a) Alfredo Garcia, Apolonio Piceno Perez (by and through his successor-in-interest,
4 Maria Guadalupe Piceno), and Rosalia Arce (hereinafter referred to as “Class Representatives” or
5 “Plaintiffs”), and on behalf of the Class and Aggrieved Employees (as defined below), and (b)
6 Defendants Universal Building Services and Supply Co. (“UBS”), Grace Brusseau, and Leonard
7 Brusseau (“Defendants”) (Plaintiffs and Defendants hereinafter collectively referred to as the
8 “Parties”).

9 THE PARTIES STIPULATE AND AGREE as follows:

10 DEFINITIONS

11 1. “**Action**” shall mean the action entitled *Alfredo Garcia, Apolonio Piceno Perez, and*
12 *Rosalia Arce v. Universal Building Services and Supply Co., Grace Brusseau, and Leonard Brusseau,*
13 Superior Court of California, Alameda County Case No. RG17887036.

14 2. “**Class Counsel**” shall mean Virginia Villegas, The Villegas Law Firm, APC; and Ike
15 M. Kaludi, California Trial Law Group, PC.

16 3. “**Class Members**” shall mean all current and former non-exempt employees of
17 Defendants who worked in California at any time from December 22, 2013, through the date
18 Preliminary Approval is granted, or a sooner date per the procedure set forth in Paragraph 74 below,
19 at Defendants’ option.

20 4. “**Class Period**” shall mean December 22, 2013, through the date Preliminary Approval
21 is granted, or a sooner date per the procedure set forth in Paragraph 74 below, at Defendants’ option.

22 5. “**Class Released Claims**” shall have the meaning ascribed to it in Paragraph 62(a)-(d)
23 below.

24 6. “**Class Representatives**” or “**Plaintiffs**” shall mean Plaintiffs Alfredo Garcia,
25 Apolonio Piceno Perez¹, and Rosalia Arce.

26
27 ¹ Plaintiff Apolonio Piceno Perez passed away on July 9, 2022. The Parties agree Plaintiffs will file an
28 unopposed motion or *ex parte* application for an order substituting the decedent's representative or successor in
interest pursuant to California Code of Civil Procedure (“CCP”) § 377.31, which will be heard prior to the
motion for preliminary approval of the Settlement. Mr. Perez’s successor in interest (person entitled to inherit

1 7. **“Court”** shall mean the Superior Court of the State of California for the County of
2 Alameda.

3 8. **“Court’s Final Order and Judgment”** means the Final Order Approving Class Action
4 and PAGA Settlement and Judgment in a form to be agreed upon by the Parties and approved by the
5 Court.

6 9. **“Defendants’ Counsel”** shall mean Alan S. Levins, Luis E. Lorenzana and William A.
7 Cosmopulos of Littler Mendelson, P.C.

8 10. **“Effective Date”** shall have the meaning ascribed to it in Paragraph 38, below.

9 11. **“Final Approval Hearing”** shall mean the hearing where the Court shall consider,
10 without limitations, any timely objections to the Settlement from Settlement Class Members,
11 testimony from the Parties or their counsel, declarations regarding the claims process from the
12 Settlement Administrator, and otherwise make a final determination regarding the fairness of the
13 Settlement as set forth herein.

14 12. **“Gross Settlement Amount”** shall refer to Three Million Five Hundred-Fifty
15 Thousand Dollars and Zero Cents (\$3,550,000.00), which is the maximum amount that Defendants
16 will pay pursuant to this Settlement unless Defendants exercise their option as described in Paragraph
17 74, excluding the corporate Defendant’s share of payroll taxes, which shall be paid by Defendants
18 separately and in addition to the Gross Settlement Amount.

19 13. **“Incentive Award”** shall mean the payment made to Plaintiffs in their capacity as a
20 Class Representatives, which sum is over and above Plaintiffs’ Individual Settlement Payments.

21 14. **“Individual Settlement Payment”** will be the portion of the Net Settlement Amount
22 payable to a Settlement Class Member.

23 15. **“Net Settlement Amount”** shall have the meaning ascribed to it in Paragraph 42,
24 below.

25 16. **“Notice of Proposed Settlement”** or **“Notice”** means the Notice of Pendency of Class
26 Action in substantially the form attached hereto as Exhibit A, and as approved by the Court.

27 _____
28 claim) who seeks to be substituted as plaintiff in place of the decedent must execute and file a declaration in
statutory form. *See* CCP § 377.32.

1 17. **“Operative Complaint”** shall mean the First Amended Class and Representative
2 Action Complaint for (1) failure to provide meal periods or pay premiums in lieu thereof at the regular
3 rate (Violation of Labor Code §§ 512, 226.7, and the applicable Wage Order [IWC Wage Order 5-
4 2001]); (2) failure to provide rest periods or pay premiums in lieu thereof at the regular rate (Violation
5 of Labor Code § 226.7, and the applicable Wage Order [IWC Wage Order 5-2001]); (3) failure to
6 furnish timely wages (Violation of Labor Code § 204); (3) failure to pay minimum wage and wages
7 for all hours worked; (Violations of Labor Code §§ 200; 218.5, 218.6, 1194, 1194.2; 1197, and
8 1197.1); (4) failure to pay and/or accurately calculate wages, overtime wages, and double time wages
9 (Violations of Labor Code §§ 218.5, 218.6, 510, 1194; and the applicable Wage Order [IWC Wage
10 Order 5-2001]); (5) failure to reimburse for business expenses (Violation of Labor Code §§ 221, 2800
11 and 2802 and the applicable Wage Order [IWC Wage Order 5-2001]); (6) failure to timely pay wages
12 during and upon termination of employment (*i.e.* waiting time penalties) (Violation of Labor Code §§
13 201, 202, 203, 218.5 and 218.6); (7) failure to furnish accurate wage statements, and keep payroll
14 records (Violation of Labor Code § 226); (8) failure to keep accurate time and payroll records
15 (Violation of Labor Code §§ 1174, 1174.5 and the applicable Wage Order [IWC Wage Order 5-2001]);
16 (9) any and all individual liability against any employer or other person acting on behalf of an
17 employer (Violation of Labor Code §§ 558.1); (10) violation of California’s Unfair Competition Law
18 based upon the alleged Labor Code violations (Violation of Business & Professions Code § 17200 *et*
19 *seq.*; Labor Code § 90.5); and (11) Violation of the California Private Attorneys General Act of 2004
20 (Labor Code § 2698, *et seq.*) predicated on the same or similar facts and/or claims alleged in the Action
21 and/or any PAGA letter sent to the State of California Labor and Workforce Development Agency
22 (“LWDA”) by Plaintiffs during or prior to the Action, as well as any claims that could have been
23 pled under the California Labor Code and California Industrial Welfare Commission Wage Orders.

24 18. **“PAGA”** shall mean the California Labor Code Private Attorneys General Act, Labor
25 Code §§ 2698 *et seq.*

26 19. **“PAGA Employees”** or **“Aggrieved Employees”** shall mean all persons who are Class
27 Members who were employed at any time during the PAGA Period, and are represented by the
28 Plaintiffs and the LWDA.

20. **“PAGA Employee Payments”** means the payment issued to each PAGA Employee for his/her/their share of the PAGA Payment.

21. **“PAGA Letter”** shall mean the amended PAGA letter Plaintiffs sent to the LWDA on or about October 24, 2022, to include claims for PAGA penalties based on all claims alleged or related to the claims in the Operative Complaint.

22. **“PAGA Payment”** means the payment to the State of California Labor and Workforce Development Agency (“LWDA”) and the PAGA Employees in settlement of all claims for PAGA penalties.

23. **“PAGA Period”** shall mean August 19, 2021, through the date the Court grants preliminary approval of this Settlement or a sooner date per the procedure set forth in Paragraph 74 below, at Defendants’ option.

24. **“Parties”** shall refer to the Plaintiffs and Defendants, each of whom is a “Party.”

25. **“Released Parties”** collectively shall encompass Defendants and any of their past, present and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as well as each of its past, present and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual, including but not limited to Grace Brusseau, and Leonard Brusseau, or entity which could be jointly liable with Defendants.

26. **“Settlement Administrator”** shall mean Simpluris, Inc.

27. **“Settlement Class Members”** shall mean the individual Class Members who did not opt-out of the Settlement by submitting a valid request for exclusion as described in Paragraph 55.

RECITALS

28. In the Action, Plaintiffs alleged causes of action for: (1) failure to provide meal periods or pay premiums in lieu thereof at the regular rate; (2) failure to provide rest periods or pay premiums in lieu thereof at the regular rate; (3) failure to furnish timely wages; (4) failure to pay minimum wage and wages for all hours worked; (5) failure to pay and/or accurately calculate wages, overtime wages, and double time wages; (6) failure to reimburse for business expenses; (7) failure to timely pay wages during and upon termination of employment (*i.e.* waiting time penalties); (8) failure to furnish accurate wage statements, and keep payroll records; (9) failure to keep accurate time and payroll records; (10)

1 violation of California's Unfair Competition Law based upon the alleged Labor Code violations; and
2 (11) Violation of the California Private Attorneys General Act of 2004. Plaintiffs alleged individual
3 liability against individual defendants as well.

4 29. Following exchange and extensive review of relevant documents and class data, on
5 September 14, 2019, the Parties engaged in a full-day mediation with experienced wage and hour class
6 action mediator the Honorable Rebecca Westerfield. The mediation was unsuccessful and the Parties
7 continued to engage in extensive formal discovery, including the exchange of thousands of pages of
8 class wide data and documents, Plaintiffs' depositions and numerous depositions of UBS's supervisors
9 and operations managers. On June 28, 2022, the Parties engaged in a second mediation with T. Warren
10 Jackson, Esq., which did not result in a settlement but did bring the Parties closer to a resolution. After
11 additional post-mediation informal negotiations, the Parties reached a settlement in principle on
12 August 19, 2022.

13 30. Defendants deny any liability or wrongdoing of any kind whatsoever associated with
14 the claims in the Action, and further deny that, for any purpose other than settling this Action, this
15 Action is appropriate for class action or representative treatment.

16 31. It is the Parties' desire to fully, finally, and forever settle, compromise, and discharge
17 all disputes and claims arising from or related to the allegations of this Action.

18 32. It is the Parties' intention that this Stipulation of Settlement shall constitute a full and
19 complete settlement and release of all Class Released Claims and all PAGA Claims (as defined in
20 Paragraphs 62 and 63 below) against all Released Parties.

21 33. It is the Parties' intention that this Settlement shall not become effective until the
22 Effective Date, as defined in Paragraph 38, below.

23 34. Class Counsel have conducted a thorough investigation into the facts of this Action,
24 including an extensive review of relevant documents and data, and taking numerous depositions of
25 key UBS employees, and have diligently pursued an investigation of the Class Members' claims
26 against Defendants. Based on their own independent investigation and evaluation, Class Counsel are
27 of the opinion that the Settlement with Defendants is fair, reasonable, and adequate and is in the best
28 interest of the Class Members in light of all known facts and circumstances, including the risks of the

1 class not being certified, and the defenses asserted by Defendants. Defendants and Defendants'
2 Counsel also agree that the Settlement is in the best interests of the Class Members. Counsel for the
3 Parties further agree that the Settlement is fair, reasonable, and adequate with respect to civil penalties
4 sought pursuant to PAGA.

5 35. The Parties agree to cooperate and take all steps necessary and appropriate to
6 consummate this settlement in accordance with the terms of this Stipulation of Settlement.

7 **TERMS OF SETTLEMENT**

8 36. In consideration of the mutual covenants, promises and agreements set forth herein, the
9 Parties agree, subject to the Court's approval, to the terms herein.

10 37. It is agreed by and between Plaintiffs and Defendants that this Action and any claims,
11 demands, liabilities, penalties, damages or causes of action of any kind whatsoever against Defendants
12 claimed by Plaintiffs on behalf of themselves, the Class Members, and/or the PAGA Employees
13 arising out of the disputes which are the subject of this Action, be settled and compromised, subject to
14 the terms and conditions set forth in this Stipulation of Settlement and the Court's approval.

15 38. Effective Date: The Settlement embodied in this Stipulation of Settlement shall
16 become effective when all of the following events have occurred ("Effective Date"): (i) this Stipulation
17 of Settlement has been executed by Plaintiffs, Defendants, Class Counsel and Defendants' Counsel;
18 (ii) the Court has given preliminary approval to the Settlement; (iii) the Notice has been sent to the
19 Class Members, providing them the opportunity to object to the Settlement, and the opportunity to opt
20 out of the Settlement; (iv) the Notice has been sent to the LWDA; (v) the Court has held a formal
21 fairness hearing and entered the Court's Final Order and Judgment; and (vi) the later of the following
22 events: (A) five (5) calendar days after the period for filing any appeal, writ or other appellate
23 proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding
24 having been filed (*i.e.*, sixty-five (65) days from the date the court grants final approval); (B) five (5)
25 business days after any appeal, writ or other appellate proceeding opposing the Settlement has been
26 dismissed finally and conclusively with no right to pursue further remedies or relief; or (C) five (5)
27 business days after any appeal, writ or other appellate proceeding has upheld the Court's Final Order
28 and Judgment with no right to pursue further remedies or relief. If the Court declines to approve the

1 Settlement, the entire Stipulation of Settlement is deemed void and unenforceable as if no settlement
2 of any claim was ever reached. All negotiations, statements and proceedings and data relating thereto
3 shall be protected by California Evidence Code §1152 and shall be without prejudice to the rights of
4 any of the Parties.

5 39. Gross Settlement Amount: To implement the terms of this Settlement, Defendants
6 agree to pay a maximum total payment of Three Million Five Hundred-Fifty Thousand Dollars and
7 Zero Cents (\$3,550,000.00), which includes payments to Settlement Class Members (excluding any
8 appropriate and lawfully required employer-side payroll taxes owed by corporate Defendant UBS on
9 such payments which UBS shall be separately responsible for apart from the Gross Settlement
10 Amount), Incentive Awards to the Class Representatives, the PAGA Payment, the Settlement
11 Administrator's fees and costs, approved Class Counsel's fees and litigation costs, and any other
12 payments provided by this Settlement. Except as otherwise specified herein, Defendants shall not be
13 required to pay any additional monies beyond the amount of the Gross Settlement Amount plus the
14 employer-side payroll taxes. Further, no portion of the Gross Settlement Amount shall revert to
15 Defendants, and any amount of the Gross Settlement Amount not required to pay the above-referenced
16 amounts shall be paid to the Settlement Class Members on a pro rata basis according to the formula
17 contained herein.

18 40. Tax Treatment of the Gross Settlement Amount: The Parties agree that the Gross
19 Settlement Amount will qualify as a settlement fund pursuant to the requirements of section 468(B)(g)
20 of the Internal Revenue Code of 1986, as amended, and section 1.468B-1. *et seq.* of the income tax
21 regulations. Furthermore, the Settlement Administrator is hereby designated as the "Administrator"
22 of the qualified settlement funds for purposes of section 1.46B-2(k) of the income tax regulations. As
23 such, all taxes imposed on the gross income of the Gross Settlement Amount and any tax-related
24 expenses arising from any income tax return or other reporting document that may be required by the
25 Internal Revenue Service or any state or local taxing body will be paid from the Gross Settlement
26 Amount, except the corporate Defendant's share of the employer payroll taxes.

27 41. Funding of Settlement Amount: Within thirty (30) calendar days after the Effective
28 Date, Defendants shall transfer to the Settlement Administrator an amount equal to the Gross

1 Settlement Amount plus UBS's share of payroll taxes. The delivery of the Gross Settlement Amount
2 and UBS's share of payroll taxes to the Settlement Administrator shall constitute full and complete
3 discharge of the entire obligation of Defendants under this Settlement. Once Defendants have made
4 such payments, Defendants will be deemed to have satisfied all terms and conditions under this
5 Settlement, shall be entitled to all protections afforded to Defendants under this Settlement, and shall
6 have no further obligations under the terms of the Settlement regardless of what occurs with respect
7 to those sums.

8 42. Allocation of the Gross Settlement Amount: Subject to Court approval and the
9 conditions specified in this Agreement, and in consideration of the mutual covenants and promises set
10 forth herein, the Parties agree the Gross Settlement Amount shall encompass the following: (1) Class
11 Counsel's fees and expenses; (2) the Plaintiffs' Incentive Awards; (3) the Settlement Administrator's
12 costs; (4) the PAGA Payment (including both the PAGA Payment to the LWDA and the PAGA
13 Employee Payments); and (5) the Net Settlement Amount. After the deduction of the amounts
14 approved for the Incentive Awards to the Class Representatives, the PAGA Payment, the Settlement
15 Administrator's costs, Class Counsel's fees and expenses, the remainder shall be referred to as the Net
16 Settlement Amount.

17 Settlement Class Members will receive a share of the Net Settlement Amount. The Parties
18 agree that twenty percent (20%) of the Net Settlement Amount distributed to each Settlement Class
19 Member will be considered wages and will be reported as such to each Settlement Class Member on
20 an IRS Form W-2. The Parties agree that sixty percent (60%) of the Net Settlement Amount distributed
21 to each Settlement Class Member will be considered penalties, and twenty percent (20%) of the Net
22 Settlement Amount distributed to each Settlement Class Member will be considered interest and will
23 be reported as such to each Settlement Class Member on an IRS Form 1099 misc., if applicable. The
24 foregoing tax allocation shall not apply to the Incentive Awards paid to Plaintiffs as the Plaintiffs will
25 receive a 1099 for the total sum of the Incentive Award. The Parties further agree that the PAGA
26 payment distributed to each PAGA Member will be treated entirely as civil penalties and will be
27 reported as such to each PAGA Member on an IRS Form 1099 misc., if applicable.
28

- 1 a. The Net Settlement Amount shall be divided among the Settlement Class Members on
2 a pro-rata basis, based upon the following:
- 3 i. Each Settlement Class Member's workweeks worked count, which shall be the
4 sum of the total number of workweeks the Settlement Class Member worked
5 during the Class Period;
- 6 ii. Divided by the combined sum of all Settlement Class Members' workweeks
7 worked count; and,
- 8 iii. Multiplied by the value of the Net Settlement Amount.
- 9 b. The Parties agree that if any Settlement Class Member disputes the basis for
10 determining their share of the Settlement, Defendants' records shall presumptively
11 control unless the Settlement Class Member can produce documentation evidence of
12 other workweeks worked during the Class Period. The Parties further agree that any
13 dispute that cannot be resolved by Class Counsel and Defendants' counsel may be
14 brought before the Court before final approval of the Class Settlement.
- 15 c. To the extent that amounts in Paragraphs 46 and 47 below are not approved by the
16 Court, such amounts will be reallocated to the Net Settlement Amount unless allocated
17 otherwise by agreement of the Parties, with approval of the Court.
- 18 d. Within fourteen (14) calendar days of the transfer of the Gross Settlement Amount to
19 the Settlement Administrator, and only upon the Effective Date being met, the
20 Settlement Administrator shall issue to each Settlement Class Member his/her/their
21 Individual Settlement Payment.
- 22 e. A Class Member must cash his/her/their Individual Settlement Payment check within
23 180 calendar days after it is mailed to them. If a check is returned to the Settlement
24 Administrator, the Settlement Administrator will make all reasonable efforts to re-mail
25 it to the Class Member at their correct address. If any Class Member's Individual
26 Settlement Payment check is not cashed within 120 days of its initial issuance to the
27 Class Member, the Settlement Administrator will send the Class Member a letter, dated
28 120 days from the initial mailing, informing them that, unless the check is cashed

1 within 60 days of the date of the letter, the check will expire and become non-
2 negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If
3 the check remains uncashed by the expiration of the 60-day period after this interim
4 notice, the Settlement Administrator will keep an accounting of such funds, including
5 the identification of the Class Member. The Settlement Administrator will then
6 disburse said funds to the State of California State Controller's Office, in the Class
7 Member's name to be held as unclaimed property for the Class Member. In such event,
8 the Class Member will nevertheless remain bound by the Settlement and the releases
9 contained herein.

10 43. PAGA Payment: Subject to the Court's Approval, up to a maximum of Fifty Thousand
11 Dollars and Zero Cents (\$50,000.00) shall be allocated as the PAGA Payment. Thirty-Seven
12 Thousand Five Hundred Dollars and Zero Cents (\$37,500.00), representing 75% of the PAGA
13 Payment, shall be paid to the LWDA. Twelve Thousand Five Hundred Dollars and Zero Cents
14 (\$12,500.00), representing 25% of the penalties paid pursuant to PAGA, shall be distributed to the
15 PAGA Employees as PAGA Employee Payments. The PAGA Employees shall release their PAGA
16 claims in their entirety and may not opt out of or object to the PAGA release, included in Paragraphs
17 62(a) and 63. To arrive at the PAGA Employee Payments, the portion of the PAGA Payment allocated
18 to the PAGA Employees shall be divided among the PAGA Employees on a pro-rata basis, based upon
19 the following:

- 20 a. Each PAGA Employee's pay period count, which shall be the sum of the total number
21 of pay periods the PAGA Employee worked during the PAGA Period;
22 b. Divided by the combined sum of all PAGA Employees' pay period counts; and
23 c. Multiplied by the value of the portion of the PAGA Payment allocated to the PAGA
24 Employees.

25 44. Individual Settlement Payments Do Not Trigger Additional Benefits: All Individual
26 Settlement Payments, PAGA Employee Payments, and the Incentive Awards shall not be utilized to
27 calculate any additional benefits under any benefit plans to which any Plaintiff, Settlement Class
28 Members and/or PAGA Employee may be eligible including, but not limited to: retirement plans,

1 profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, paid time off,
2 sick leave plans, PTO plans, pension plans, or any other benefit plan. It is the Parties' intention that
3 this Agreement will not affect any rights, contributions, or amounts to which Plaintiffs, Settlement
4 Class Members and PAGA Employees may be entitled under any benefit plans.

5 45. Settlement Administrator: The Settlement Administrator shall be Simpluris, Inc. (the
6 "Settlement Administrator"). The Settlement Administrator will maintain acceptable electronic and
7 physical security protocols to adequately protect and safeguard the private employee information it
8 will have access to as a result of the claims process. The fees and expenses of the Settlement
9 Administrator, which is currently estimated at approximately Twenty-Three Thousand One Hundred
10 Twenty-five Dollars and Zero Cents (\$23, 125), shall be paid through the Gross Settlement Amount.

11 46. Attorneys' Fees and Attorneys' Costs: Subject to the Court's approval, Class Counsel
12 shall seek attorneys' fees which shall not exceed thirty-three point three percent (33.3%) of the Gross
13 Settlement Amount not to exceed One Million One Hundred Eighty-Two Thousand and One Hundred
14 Fifty Dollars and Zero Cents (\$1,182,150.00), and reimbursement of actual costs and expenses
15 associated with Class Counsel's litigation and settlement of the Action, in an amount not to exceed
16 Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00), subject to approval by the Court.
17 Defendants will not object to Class Counsel's application for attorneys' fees and costs in these
18 amounts. The amount set forth above will cover all work performed and all fees and costs incurred to
19 date, and all work to be performed and all fees and costs to be incurred in the future in connection with
20 the approval by the Court of this Stipulation of Settlement, and the administration of the Settlement.
21 Should Class Counsel collectively request a lesser amount, or should the Court approve a lesser
22 amount of attorneys' fees and/or attorneys' costs, the difference between the lesser amount and the
23 maximum amount set forth above shall be added to the Net Settlement Amount. No Class Counsel
24 shall be entitled to further fees or costs from Defendants if it or they elect to appeal any reduction in
25 the requested fee or cost award. Any reduction by the Court of Class Counsel's claimed attorneys'
26 fees and/or reasonable costs/expenses shall not be sufficient grounds to void the Settlement. Plaintiffs
27 and Defendants shall bear their own attorney's fees and costs, except as provided herein.

1 47. Class Representatives' Incentive Awards: Subject to the Court's approval, the Class
2 Representatives Alfredo Garcia, Apolonio Piceno Perez's successor-in-interest Maria Guadalupe
3 Piceno, and Rosalia Arce, will each be paid an Incentive Award in an amount up to a maximum of
4 Fifteen Thousand Dollars and Zero Cents (\$15,000.00) in recognition for their respective service as a
5 Class Representatives and as consideration for their Complete Release of All Claims against Released
6 Parties, which shall be paid from the Gross Settlement Amount. Defendants will not object to Class
7 Counsel's application for Court approval of an Incentive Award to the Class Representatives in the
8 amount of Fifteen Thousand Dollars and Zero Cents (\$15,000.00), payable to each. It is understood
9 that the Incentive Awards are in addition to any claimed Individual Settlement Payment or PAGA
10 Employee Payment to which Plaintiffs are entitled. The Incentive Award shall not be deemed wages
11 and will be reported on an IRS Form 1099-MISC, if applicable.

12 48. Tax Forms: The Settlement Administrator shall be responsible for issuing the payments
13 and withholding all required state and federal taxes in accordance with this Stipulation of Settlement.
14 The Settlement Administrator will issue IRS Forms 1099 with respect to the amounts paid as interest
15 and penalties to the Settlement Class Members and PAGA Employees. The Settlement Administrator
16 will also issue IRS Forms 1099 to: (1) Plaintiffs for their respective Incentive Awards; and (2) Class
17 Counsel for the amount paid for approved fees and costs. The Settlement Administrator will be
18 responsible for preparing these forms correctly. The Settlement Administrator shall also be
19 responsible for submitting UBS's share of payroll taxes to the appropriate government agencies on
20 behalf of UBS. Plaintiffs and Class Counsel will be responsible for correctly characterizing this
21 compensation for tax purposes and for paying any taxes on the amounts received.

22 49. Indemnification: Plaintiffs and Class Counsel acknowledge and agree that they are and
23 will be responsible for the payment of any and all Federal, State, and Local taxes or penalties
24 associated with their respective allocated portions of the payments described herein, and agree to
25 indemnify, defend, and hold Defendants and the Released Parties harmless from any and all claims by
26 any Federal, State, or Local taxing authority that Plaintiffs or Class Counsel failed to pay or underpaid
27 their or her or his share of taxes associated with the payments set forth in this Settlement. The Parties
28

1 acknowledge and agree that Class Counsel is not responsible for the payment of any Federal, State,
2 and Local taxes or penalties associated with payments to Plaintiffs and Class Members.

3 **NOTICE TO THE SETTLEMENT CLASSES**

4 50. Within twenty-one (21) calendar days of preliminary approval of this Settlement by the
5 Court, Defendants shall provide to the Settlement Administrator a database containing the following
6 information (“Class Member List”):

- 7 a. The full name, last known address, date of birth and full social security number of all
8 Class Members; and
9 b. The information necessary to determine the estimated settlement allocation to each
10 Class Member, including: (i) The total number of workweeks worked by each Class
11 Member within the Class Period; and (ii) The total number of pay periods worked by
12 each PAGA Employee within the PAGA Period.

13 51. The Settlement Administrator (along with any of its agents) shall represent and warrant
14 that it will: (1) provide reasonable and appropriate administrative, physical and technical safeguards,
15 including a reasonable security protocol, for any personally identifiable information (“PII”), which it
16 receives from Defendants’ Counsel and/or Class Counsel; (2) not disclose the PII to third parties,
17 including agents or subcontractors, without Defendants’ consent; (3) not disclose or otherwise use the
18 PII other than to carry out its duties as set forth herein; and (4) promptly provide Defendants with
19 notice if PII is subject to unauthorized access, use, disclosure, modification, or destruction. The
20 Settlement Administrator may provide notice to both Parties if the PII is subject to unauthorized
21 access, use, disclosure, modification or destruction; however, all additional communications from the
22 Settlement Administrator regarding the scope, circumstances, and substance shall be communicated
23 solely to Defendants.

24 52. The Settlement Administrator shall send a Notice to each Class Member by first class
25 mail within fourteen (14) calendar days of receipt of the Class Member List. Prior to mailing the
26 Notice, the Settlement Administrator shall update the addresses of the Class Members by reference to
27 the National Change of Address Database maintained by the United States Postal Service. If a Notice
28 is returned as non-deliverable but with a forwarding address, the Settlement Administrator shall resend

1 the Notice to the forwarding address. If a Notice is returned as non-deliverable with no forwarding
2 address, the Settlement Administrator shall conduct an advanced skip trace to locate the most current
3 address of the person to whom the Notice was addressed, and shall resend the Notice to any updated
4 address within five (5) calendar days. The Class Member shall have an additional fifteen (15) calendar
5 days from the date of re-mailing to object, opt-out or dispute workweeks, or pay periods. Upon
6 completion of these steps, the Parties shall be deemed to have satisfied their obligations to provide the
7 Notice to the affected Class Members.

8 53. The Settlement Administrator shall provide to the Court, concurrently with Plaintiffs'
9 Motion for Final Approval, a declaration of due diligence and proof of mailing with regard to the
10 mailing of the Notices.

11 54. The Settlement Administrator shall also be responsible for:

- 12 a. Mailing the Notice as directed by the Court;
- 13 b. Consulting with Counsel for the Parties concerning any relevant issue, including
14 (without limitation) the estimated amounts of approximate Individual Settlement
15 Payments, PAGA Employee Payments, and the acceptance of any late or deficient
16 disputes;
- 17 c. Keeping track of timely and proper requests for exclusion;
- 18 d. Calculation of the Individual Settlement Payments, PAGA Employee Payments, and
19 the PAGA Payment to the LWDA;
- 20 e. Providing weekly status reports to counsel for the Parties, including: (a) the number of
21 Notices mailed (including information regarding undeliverable and/or emailed
22 Notices); (b) the number of disputes received (and sending copies of said disputes); (c)
23 the number of objections received; and (d) the number of requests for exclusion
24 received;
- 25 f. Notifying Counsel for Defendants of the wiring instructions to fund the Settlement
26 Amount as approved by the Court;
- 27 g. Distributing and paying the Incentive Awards, Individual Settlement Payments, PAGA
28 Employee Payments, the PAGA Payment to the LWDA, and fees and costs awarded to

1 Class Counsel;

- 2 h. Issuing tax forms and addressing employer and employee-side payroll taxes; and
3 i. Such other tasks as the Parties mutually agree or the Court orders the Settlement
4 Administrator to perform, including responding to questions from Class Members.

5 **REQUESTS FOR EXCLUSION**

6 55. Each Class Member shall have sixty days (60) calendar days from the mailing of the
7 Notice within which to complete and postmark a written request for exclusion, for return to the
8 Settlement Administrator. The request need not be in any particular form and will be considered a
9 valid request for exclusion so long as it communicates a clear desire by the Settlement Class Member
10 not to be included in the Settlement and/or Settlement Class, and identifies his/her/their full name,
11 current address, the last four digits of their Social Security Number, and his/her/their signature. No
12 requests for exclusion shall be accepted if postmarked after the sixty (60) calendar day period for the
13 filing of exclusions, except in circumstances of remailing as described in Paragraph 52. Class
14 Members are responsible to maintain a photocopy of their request for exclusion, reflecting that it was
15 submitted in a timely manner. Any disputes regarding the timeliness of a request for exclusion or
16 whether a written communication constitutes a valid request that cannot be resolved between the
17 Parties shall be determined by the Court, whose determination shall be final.

18 56. Any Class Member who validly excludes himself/herself/themselves from this
19 Settlement shall not be bound by the Class Released Claims and shall not be entitled to any portion of
20 the Net Settlement Amount. Any request for exclusion shall not be effective as to the release of claims
21 under the Private Attorneys General Act.

22 57. If ten percent (10%) or more of the Class Members opt out of the Settlement by
23 submitting valid and timely requests for exclusion, Defendants shall have the sole and absolute
24 discretion to rescind/void the Settlement Agreement within fifteen (15) calendar days after receiving
25 from the Settlement Administrator the final list of requests for exclusion. Defendants agree to meet
26 and confer in good faith with Class Counsel before rescinding or voiding the Settlement Agreement.
27 In the event that Defendants elect to rescind/void the Settlement Agreement, Defendants shall provide
28 written notice of such rescission to Class Counsel. Such rescission shall have the same effect as a

1 termination of the Settlement Agreement for failure to satisfy a condition of settlement, and the
2 Settlement Agreement shall become null and void and have no further force or effect. The Parties
3 specifically agree not to solicit opt-outs, directly or indirectly, through any means.

4 **OBJECTIONS TO THE SETTLEMENT**

5 58. Each Class Member shall have sixty (60) calendar days from the mailing of the Notice,
6 or such number of days as the Court shall specify, within which to postmark an objection, for return
7 to the Settlement Administrator. Any Class Member, who does not affirmatively opt-out of the
8 Settlement by submitting a valid and timely request for exclusion, may object to the approval of class
9 action settlement (“Objecting Class Member”). Any Class Member who makes a timely request for
10 exclusion has waived their right to object. The Objecting Class Member shall: (1) inform the Court
11 and the Parties in the objection of (a) the full name and current address of the Objecting Class Member
12 and (b) the specific reason(s) for the objection; and (2) also provide any and all evidence and
13 supporting papers (including, without limitation, all briefs, written evidence, and declarations) to be
14 considered by the Court. Any Objecting Class Member who wishes to appear at the Final Approval
15 Hearing and be heard orally in support of, or in opposition to the class action settlement, must state so
16 in the objection. Class Members shall have no right to object to the PAGA release or PAGA Payment.

17 59. Any Class Member who fails to timely submit an objection shall be foreclosed from
18 making any objection to this Settlement or from filing an appeal of the Court’s Final Order and
19 Judgment unless otherwise ordered by the Court.

20 60. Counsel for the Parties shall file any response to the objections submitted by Objecting
21 Class Members, if any, at least seven (7) calendar days before the date of the Final Approval Hearing.

22 61. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage
23 Class Members to submit written objections to the Settlement or to appeal from the Court’s Final
24 Order and Judgment. Class Counsel shall not represent any Class Members with respect to any such
25 objections to this Settlement.

26 ///

27 ///

28 ///

RELEASE OF CLAIMS BY CLASS REPRESENTATIVE, SETTLEMENT CLASS
MEMBERS, AND PAGA EMPLOYEES

62. The “Class Released Claims”. Upon the funding of the Gross Settlement Amount in accordance with Paragraph 41, Plaintiffs and the Class Members hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged all claims pled in the Operative Complaint and which could have been alleged under state or federal law under the same or similar facts, allegations and/or claims pled in the Action or in any letter by Plaintiffs to the LWDA, against the Released Parties (as defined above), for work performed during the Class Period, including the following:

- a. The Claims set forth in the Operative Complaint, specifically: (1) failure to provide meal periods or pay premiums in lieu thereof at the regular rate (Violation of Labor Code §§ 512, 226.7, and the applicable Wage Order [IWC Wage Order 5-2001]); (2) failure to provide rest periods or pay premiums in lieu thereof at the regular rate (Violation of Labor Code § 226.7, and the applicable Wage Order [IWC Wage Order 5-2001]); (3) failure to furnish timely wages (Violation of Labor Code § 204); (4) failure to pay minimum wage and wages for all hours worked; (Violations of Labor Code §§ 200; 218.5, 218.6, 1194, 1194.2; 1197, and 1197.1); (5) failure to pay and/or accurately calculate wages, overtime wages, and double time wages (Violations of Labor Code §§ 218.5, 218.6, 510, 1194; and the applicable Wage Order [IWC Wage Order 5-2001]); (6) failure to reimburse for business expenses (Violation of Labor Code §§ 221, 2800 and 2802 and the applicable Wage Order [IWC Wage Order 5-2001]); (7) failure to timely pay wages during and upon termination of employment (*i.e.* waiting time penalties) (Violation of Labor Code §§ 201, 202, 203, 204, 218.5 and 218.6); (8) failure to furnish accurate wage statements, and keep payroll records (Violation of Labor Code § 226); (9) failure to keep accurate time and payroll records (Violation of Labor Code §§ 1174, 1174.5 and the applicable Wage Order [IWC Wage Order 5-2001]); (10) any and all individual liability against any employer or other person acting on behalf of an employer (Violation of Labor Code §§ 558.1); (11)

violation of California's Unfair Competition Law based upon the alleged Labor Code violations (Violation of Business & Professions Code § 17200 *et seq.*; Labor Code § 90.5); and (12) Violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698, *et seq.*) predicated on the same or similar facts and/or claims alleged in the Action and/or any PAGA letter sent to the LWDA by Plaintiffs in or prior to the Action, as well as any claims that could have been pled under the California Labor Code and California Industrial Welfare Commission Wage Orders.

- b. Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or punitive damages alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the Operative Complaint in the Action; and
- c. Any and all other claims under California common law, the federal law, and the California Business and Professions Code alleged in or that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Action and based on the alleged Labor Code violations;
- d. The claims set forth in subparagraphs (a)-(c) hereinabove shall be collectively referred to as the "Released Claims."

63. Release of PAGA Claims. Upon the funding of the Gross Settlement Amount in accordance with Paragraph 41, Plaintiffs, the LWDA, and the State of California, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Defendants and Released Parties of and from any and all claims for civil penalties for violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698, *et seq.*), ("PAGA Claims") that could have been sought by the Labor Commissioner identified in the PAGA Letter and those predicated on the facts and/or claims alleged in the PAGA Letter sent to the LWDA by Plaintiffs that arose at any time during the PAGA Period. However, to the extent the LWDA has released the PAGA claims in connection with this Agreement, no PAGA Employee may pursue these same PAGA claims released herein in another action. The PAGA Employees are collaterally estopped from pursuing the PAGA claims released and compromised by the LWDA. No PAGA Employee may pursue the same PAGA claims in a representative capacity that are released

1 here in another action. After the Court grants final approval of the settlement, Plaintiff will provide
2 the LWDA with a copy of the Judgment which will include a list of the PAGA Employees during the
3 PAGA Period. Plaintiff does not release any PAGA Employees' claim for wages and damages. This
4 does not preclude the release of wages and damages by the Class Members as set forth in Paragraph
5 62 of this Agreement. The PAGA Employees will be issued a check for their share of the PAGA
6 Payment and will not have the opportunity to opt out of, or object to, the PAGA Payment and release
7 of the PAGA Claims set forth in this Paragraph. The PAGA Employees are bound by the release of
8 the PAGA Claims regardless of whether they cash or deposit their PAGA Employee Payment or opt
9 out of being a Settlement Class Member in accordance with Paragraph 55.

10 64. Release of Claims by Class Representatives. Upon the funding of the Gross Settlement
11 Amount in accordance with Paragraph 41, and as a condition of receiving any portion of their Incentive
12 Awards, the Class Representatives, for themselves only, agree to the additional following General
13 Release: in consideration of Defendants' promises and agreements as set forth herein, the Class
14 Representatives hereby fully release Defendants and the Released Parties from any and all Class
15 Released Claims and also generally release and discharge the Released Parties from any and all claims
16 for wages, bonuses, severance pay, vacation pay, penalties, employment benefits, stock options,
17 violation of any personnel policy, any and all claims arising from the Class Representatives'
18 employment or as a result of the Class Representatives' termination from employment including
19 claims based on discrimination, harassment, unlawful retaliation, violation of public policy, or
20 damages of any kind whatsoever, arising out of any common law torts, contracts, express or implied,
21 any covenant of good faith and fair dealing, any theory of wrongful discharge, any theory of
22 negligence, any theory of retaliation, any legal restriction on any Defendants' right to terminate the
23 employment relationship, or any federal, state, or other governmental statute, executive order,
24 regulation or ordinance, or common law, or any other basis whatsoever, to the fullest extent provided
25 by law. The Class Representatives shall be deemed to have, and by operation of the Final Order and
26 Judgment shall have, expressly waived and relinquished to the fullest extent permitted by law the
27 provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar
28 provision under federal or state law that purports to limit the scope of a general release. The Class

Representatives, for themselves, have read Section 1542 of the Civil Code of the State of California, 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.

The Class Representatives understand that Section 1542 gives the right not to release existing claims of which the Class Representatives are not now aware, unless the Class Representatives voluntarily choose to waive this right. Having been so apprised, the Class Representatives nevertheless voluntarily waive the rights described in Section 1542, and elect to assume all risks for claims that now exist in the Class Representatives' favor, known or unknown. The release of the claims of the Class Representatives as set forth in this Paragraph is a condition precedent to enforcement of this Stipulation of Settlement.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL/CLASS CERTIFICATION

65. The Parties have agreed that Plaintiffs will seek leave to file the Operative Complaint, which the Parties have stipulated Plaintiffs will file in advance or as a condition of this Settlement.

66. The Parties have agreed that Plaintiffs will file the PAGA Letter.

67. For settlement purposes only, the Parties agree that the Class Members as defined in Paragraph 4 herein, and which will run through the date of preliminary approval, or a sooner date per the procedure set forth in Paragraph 74 below, at Defendants' option, may be certified in the Action. The Parties are not certifying any PAGA claims. In support of this Agreement, Plaintiffs will request that the Court certify for settlement purposes the Class as to all non-PAGA claims that have been asserted, which Defendants shall not oppose or object to.

68. For settlement purposes only, the Parties agree that the PAGA Period shall run from the period defined in Paragraph 23 herein and set forth in Paragraph 74 below, and will run through the date of preliminary approval.

69. Class Counsel shall promptly submit this Stipulation of Settlement to the Court in support of Plaintiffs' Motion for Preliminary Approval and for determination by the Court as to

whether the proposed Settlement is within the range of possible judicial approval. Promptly upon execution of this Stipulation of Settlement, Class Counsel shall apply to the Court for the entry of an order substantially in the following form:

- a. Scheduling of the Final Approval Hearing on the question of whether the proposed Settlement, including payment of attorneys' fees and costs and the Incentive Awards should be finally approved as fair, reasonable and adequate as to the Settlement Class Members and for approval of the PAGA Settlement;
- b. Certifying the Settlement Class;
- c. Approving the Class Notice attached hereto as **Exhibit A**;
- d. Directing the mailing of the Notice by first class mail to the Class Members and PAGA Employees; and
- e. Preliminarily approving the Settlement subject only to the objections of the Class Members and final review by the Court.

70. The Parties will work cooperatively to mutually agree upon the form and content of the Notice, as well as the Proposed Order Granting Preliminary Approval.

71. The Class Representatives and Class Counsel will not make any public disclosure of the Settlement until after the filing of the motion for preliminary approval of the Settlement. The Class Representatives and each Class Counsel represent that they have not made any such disclosure. The Class Representatives and Class Counsel shall not encourage any Class Members to opt-out. Class Counsel will take all steps necessary to ensure that the Class Representatives are aware of, and will encourage the Class Representatives to adhere to, the restriction against any public disclosure of the Settlement until after the Settlement is preliminarily approved by the Court. Thereafter, Class Counsel and the Class Representatives agree not to publicize the terms of this Settlement with the media, including but not limited to, any newspaper, journal, magazine, website and/or online reporter of settlements, or publicize the fact or the terms of this Settlement on any website.

DUTIES OF THE PARTIES FOLLOWING FINAL APPROVAL

72. Following final approval by the Court of the Settlement provided for in this Stipulation of Settlement, Class Counsel shall submit a proposed Final Order and Judgment in approximately the

1 following form and with input from Defendants' Counsel: Approving the Settlement, adjudging the
2 terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and
3 provisions including the approval of Class Counsel's application for an award of attorneys' fees and
4 costs and the Incentive Award to the Class Representatives. The Parties will work cooperatively to
5 mutually agree upon the form and content of the Proposed Order Granting Final Approval of the Class
6 Settlement and Approval of the PAGA Settlement and Judgment.

7 73. Within twenty-one (21) days after the Effective Date (defined in Paragraph 38),
8 Plaintiffs and Class Counsel shall return to Defendants' counsel all documents produced and used in
9 this Action, and copies thereof, related to:

- 10
- 11 a. any third-party employee's contact information, personnel records, payroll records,
12 timecards, time punches, work schedules and wage statements, including but not
limited to those Bates numbered UBS-002215 through UBS-019187; and
 - 13 b. any Universal Building Services and Supply Co. proprietary business information
14 including, UBS-00001; UBS-001897 through UBS-002012; UBS-002047 through
UBS-002214; UBS-019187 through UBS-019572.

15 After returning the above documents, and the copies thereof, Class Counsel will certify that all of these
16 documents have been permanently deleted from each of Plaintiffs' and Class Counsel's systems,
17 including but not limited to their computers, servers and databases, and that all paper copies of these
18 documents have been destroyed. Plaintiffs and Class Counsel agree not to use any of the above
19 documents, or related testimony, in any future proceeding even if any of the above documents were
20 included in a deposition in this Action. In continuing compliance with the terms of the Parties'
21 Memorandum of Understanding, the Parties' January 23, 2020 Joint Case Management Statement filed
22 in this Action, the Court's August 24, 2022 Order granting Defendants' Motion for Protective Order
23 and the Parties' corresponding agreement related to the mediation documents at issue, as well as any
24 other agreement the Parties entered into regarding the use of Defendants' and its third-party
25 employees' and customers' confidential, proprietary information produced in connection with this
26 Action, Class Counsel may maintain in its files, all work product, and one copy of each pleading filed
27
28

1 with the Court and one copy of each deposition together with the Bates-numbered exhibits marked at
2 the deposition.

3 **ESCALATOR CLAUSE**

4 74. Defendants represent that the calculated number of workweeks from December 22,
5 2013 through and until August 19, 2022, shall not exceed 211,030 workweeks. Any finding of
6 workweeks during the time frame from December 22, 2013, through Preliminary Approval that
7 exceeds the 211,030 workweek count by more than 10% (21,103) at the option of Defendants,
8 Defendants shall either increase the Gross Settlement Amount or elect to move the end date for the
9 Settlement Class Period to the latest date before the Preliminary Approval that does not exceed
10 232,133 workweeks. In the event Defendants elect to extend the Class Period to a date wherein the
11 total workweeks is more than 231,133, the Gross Settlement Amount will be increased by determining
12 the workweek value calculated based on 231,133 workweeks divided by the Gross Settlement Amount
13 multiplied by the additional number of workweeks. For example, if the total number of workweeks
14 by the end of the Class Period is 231,233 and the workweek value is \$15.35 per workweek, Defendants
15 would have to increase the Gross Settlement Amount by \$1,535 ($231,133 - 231,233 = 100 \times \15.35).

16 **VOIDING OF AGREEMENT IF SETTLEMENT NOT FINALIZED**

17 75. Subject to the obligations of mutual full cooperation set forth herein, either Plaintiffs
18 or Defendants may terminate this Settlement if after submitting the settlement for approval to the
19 Court, the Court declines to enter the preliminary approval order, the final approval order, or judgment
20 in substantially the form submitted by the Parties, or if the Stipulation of Settlement as agreed does
21 not become final because of appellate court action. The terminating Party shall give to the other Party
22 (through counsel) written notice of its decision to terminate no later than fifteen (15) calendar days
23 after receiving notice that one of the enumerated events has occurred. Termination shall have the
24 following effects:

- 25 (a) The Stipulation of Settlement shall be terminated and shall have no force or effect, and
26 no Party shall be bound by any of its terms.
- 27
28

1 (b) In the event the Settlement Agreement is terminated, Defendants shall have no
2 obligation to make any payments to any party, Settlement Class Member, PAGA
3 Employee or Class Counsel.

4 (c) The preliminary approval order, final approval order and judgment shall be vacated.

5 (d) The Stipulation of Settlement and all negotiations, statements and proceedings relating
6 thereto shall be without prejudice to the rights of any of the Parties, all of whom shall
7 be restored to their respective positions prior to the Settlement.

8 (e) Except as otherwise discoverable, neither this Stipulation of Settlement nor any
9 ancillary documents, actions, statements or filings in furtherance of settlement
10 (including all matters associated with the mediation) shall be admissible or offered into
11 evidence in the Action or any other action for any purpose whatsoever.

12 **PARTIES' AUTHORITY**

13 76. The signatories hereto hereby represent that they are fully authorized to enter into this
14 Stipulation of Settlement and bind the Parties hereto to the terms and conditions thereof.

15 **MUTUAL FULL COOPERATION**

16 77. The Parties agree to fully cooperate with each other to accomplish the terms of this
17 Stipulation of Settlement, including, but not limited to, execution of such documents and taking of
18 such action as reasonably may be necessary to implement the terms of this Stipulation of Settlement.
19 The Parties to this Stipulation of Settlement shall use their best efforts, including all efforts
20 contemplated by this Stipulation of Settlement and any other efforts that may become necessary by
21 order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the terms set forth
22 herein. As soon as practicable after execution of this Stipulation of Settlement, Class Counsel shall
23 take all necessary steps to secure the Court's final approval of this Stipulation of Settlement.

24 78. The Parties and their respective counsel agree that they will not attempt to encourage
25 or discourage Class Members from filing requests for exclusion.

26 **NO PRIOR ASSIGNMENTS**

27 79. The Parties and their respective counsel represent, covenant and warrant that they have
28 not, directly or indirectly, assigned, transferred, encumbered or purported to assign, transfer or

1 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action
2 or right herein released and discharged except as set forth herein.

3 **NO ADMISSION**

4 80. Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to
5 be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the part of
6 Defendants or the Released Parties. Each of the Parties hereto has entered into this Stipulation of
7 Settlement solely with the intention to avoid further disputes and litigation with the attendant
8 inconvenience and expenses.

9 **BREACH AND ENFORCEMENT ACTIONS**

10 81. The Parties will jointly request that the Court retain jurisdiction pursuant to California
11 Code of Civil Procedure § 664.6 to oversee and enforce the terms of this Settlement. In the event of
12 a breach of this Settlement, the non-breaching Party shall provide notice to the breaching party and
13 request that the breaching party cure any alleged breach. If the breach is not cured within thirty (30)
14 days of said notice, the non-breaching party may pursue legal action or other proceeding against any
15 other breaching party or parties to enforce the provisions of this Stipulation of Settlement or to declare
16 rights or obligations under this Stipulation of Settlement. In the event of such enforcement actions,
17 the successful party or parties shall be entitled to recover from the unsuccessful party or parties
18 reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any
19 enforcement actions. All such disputes shall be resolved by the Court.

20 **NOTICES**

21 82. Unless otherwise specifically provided herein, all notices, demands or other
22 communications given hereunder shall be in writing and shall be deemed to have been duly given as
23 of the third business day after mailing both electronically and by United States registered or certified
24 mail, return receipt requested, and addressed as follows:

25 **To Plaintiffs, the Settlement Class and Class Counsel:**

26 Virginia Villegas
27 THE VILLEGAS LAW FIRM, APC
28 3330 Geary Blvd. 2nd Fl West
San Francisco, California 94118
Telephone: (415) 989-8000
Facsimile: (415) 989-8028

Ike M. Kaludi, Jr.
CALIFORNIA TRIAL LAW GROUP, PC
828 San Pablo Ave. Suite 109
Albany, CA 94706
Telephone: (415) 967-4900
Facsimile: (415) 967-4901

To Defendants and Defendants' Counsel:

Alan S. Levins,
William A. Cosmopulos
LITTLER MENDELSON, P.C.
333 Bush Street, 34th Floor
San Francisco, CA 94104
Telephone: (415) 433-1940
Facsimile: (415) 399-8490

Luis E. Lorenzana
LITTLER MENDELSON, P.C.
501 W. Broadway, Suite 900
San Diego, California 92101
Telephone: (619) 232-0441

CONSTRUCTION

83. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, and this Stipulation of Settlement shall not be construed in favor of or against any party by reason of the extent to which any Party or their counsel participated in the drafting of this Stipulation of Settlement.

CAPTIONS AND INTERPRETATIONS

84. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Stipulation of Settlement or any provision of it. Each term of this Stipulation of Settlement is contractual and not merely a recital.

MODIFICATION

85. This Stipulation of Settlement may not be changed, altered or modified, except in writing and signed by the Parties hereto and approved by the Court. This Stipulation of Settlement

1 may not be discharged except by performance in accordance with its terms or by a writing signed by
2 the Parties hereto.

3 **INTEGRATION CLAUSE**

4 86. This Stipulation of Settlement, and the Exhibits attached hereto and incorporated herein
5 by reference, contain the entire agreement between the Parties relating to the settlement and transaction
6 contemplated hereby, and all prior or contemporaneous agreements, understandings, representations
7 and statements, whether oral or written and whether by a Party or such Party's legal counsel, are
8 merged herein. No rights hereunder may be waived except in writing.

9 **BINDING ON ASSIGNS**

10 87. This Stipulation of Settlement shall be binding upon and inure to the benefit of the
11 Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

12 **COUNTERPARTS**

13 88. This Stipulation of Settlement may be executed in counterparts and by facsimile
14 signatures, and when each party has signed and delivered at least one such counterpart, each
15 counterpart shall be deemed an original and, when taken together with other signed counterparts, shall
16 constitute one Stipulation of Settlement binding upon and effective as to all Parties.

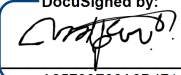
17 **TRANSLATION**

18 89. To the extent the Plaintiffs need this Stipulation of Settlement translated, Plaintiffs and
19 Class Counsel will ensure that it is translated in Plaintiffs' language of choice at Plaintiffs' cost alone.
20 Defendants will not be responsible for any costs associated with having this Stipulation of Settlement
21 translated for Plaintiffs.

22 90. By signing this Stipulation of Settlement, Plaintiffs are acknowledging that they either
23 read, or had this Stipulation of Settlement translated to them in the language of their choice, and that
24 Plaintiffs fully understand the contents of this Stipulation of Settlement, including their obligations
25 and their general release of any and all known and unknown claims against Defendants and the
26 Released Parties.

IN WITNESS HEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Settlement and Release between Plaintiffs and Defendants as of the date(s) set forth below:

Dated: 02/02, 2023

DocuSigned by:

A85790F66A6D471...

Alfredo Garcia
Plaintiff and Class Representative

Dated: , 2023

Maria Guadalupe Piceno successor-in-interest for
Plaintiff Apolonio Piceno Perez
Plaintiff and Class Representative

Dated: , 2023

Rosalia Arce
Plaintiff and Class Representative

Dated: , 2023

Grace Brusseau
Defendant

Dated: , 2023

Leonard Brusseau
Defendant

Dated: , 2023

Leonard Brusseau, on behalf of,
Defendant Universal Building Services and
Supply Co.

APPROVED AS TO FORM AND CONTENT:

DATED: , 2023

THE VILLEGAS LAW FIRM, APC

BY:
Virginia Villegas, Esq.

And

DATED: , 2023

CALIFORNIA TRIAL LAW GROUP, PC

BY:
Ike M. Kaludi, Esq.

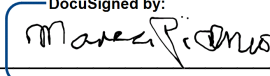
Attorneys for Plaintiffs

IN WITNESS HEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Settlement and Release between Plaintiffs and Defendants as of the date(s) set forth below:

Dated: _____, 2023

Alfredo Garcia
Plaintiff and Class Representative

Dated: 02/05 _____, 2023

DocuSigned by:

F364EC5D96E64BC
Maria Guadalupe Piceno successor-in-interest for
Plaintiff Apolonio Piceno Perez
Plaintiff and Class Representative

Dated: _____, 2023

Rosalia Arce
Plaintiff and Class Representative

Dated: _____, 2023

Grace Brusseau
Defendant

Dated: _____, 2023

Leonard Brusseau
Defendant

Dated: _____, 2023

Leonard Brusseau, on behalf of,
Defendant Universal Building Services and
Supply Co.

APPROVED AS TO FORM AND CONTENT:

DATED: _____, 2023

THE VILLEGAS LAW FIRM, APC

BY: _____
Virginia Villegas, Esq.

And

DATED: _____, 2023

CALIFORNIA TRIAL LAW GROUP, PC

BY: _____
Ike M. Kaludi, Esq.

Attorneys for Plaintiffs

1 IN WITNESS HEREOF, the Parties hereto knowingly and voluntarily executed this Joint
2 Stipulation of Settlement and Release between Plaintiffs and Defendants as of the date(s) set forth
3 below:

4
5 Dated: _____, 2023

Alfredo Garcia
Plaintiff and Class Representative

6
7 Dated: _____, 2023

Maria Guadalupe Piceno successor-in-interest for
Plaintiff Apolonio Piceno Perez
Plaintiff and Class Representative

8
9 Dated: 02 / 02 / 2023, 2023

R. A

Rosalia Arce
Plaintiff and Class Representative

10
11 Dated: 1/31/23, 2023

Grace Brusseau
Defendant

12
13 Dated: 1-31, 2023

Leonard Brusseau
Defendant

14
15 Dated: 1-31, 2023

Leonard Brusseau, on behalf of,
Defendant Universal Building Services and
Supply Co.

16
17
18
19 **APPROVED AS TO FORM AND CONTENT:**

20 DATED: 2/2/23, 2023

THE VILLEGAS LAW FIRM, APC

21
22 BY: Virginia Villegas
Virginia Villegas, Esq.

23 And

24 DATED: 02/02, 2023

CALIFORNIA TRIAL LAW GROUP, PC

25
26 BY: Ike M. Kaludi
Ike M. Kaludi, Esq.

27
28 Attorneys for Plaintiffs

1
2 DATED: 2/1, 2023

LITTLER MENDELSON, P.C.

3
4 BY: 
5 Alan S. Levins, Esq.
6 Luis E. Lorenzana, Esq.
7 William R. Cosmopulos, Esq.

8 Attorneys for Defendants

9 The filing party has obtained the authorization and approval of all signatories.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION
AND HEARING DATE FOR FINAL COURT APPROVAL**

Alfredo Garcia et al. v. Universal Building Services and Supply Co., et al.,
Superior Court of California, Alameda County Case No. RG17887036.

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Settlement Payment is: \$<<__>>. See the explanation in Section 5 below. After final approval by the Court, the payment will be mailed to you at the same address as this Class Notice. In exchange for the settlement payment, you will release claims against the Defendants as detailed in Section 4 below. If your address has changed, you must notify the Settlement Administrator as explained in Section 6 below.
Exclude Yourself	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will not receive your estimated Individual Settlement Payment from the Settlement, but you will receive your PAGA Employee Payment. Instructions regarding excluding yourself are set forth in Section 7 below.
Object	To object, you must send a written objection to the Settlement Administrator indicating why you do not agree with the Settlement or you may appear in-person at the Final Approval Hearing to make an oral objection. Directions are provided in Section 8 below.

1. Why Did I Get this Notice?

A proposed class action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of Alameda (the “Court”) has been reached between Plaintiffs Alfredo Garcia, Apolonio Piceno Perez’s successor-in-interest Maria Guadalupe Piceno, and Rosalia Arce (“Plaintiffs” or Class Representatives) and Defendants Universal Building Services and Supply Co. (“UBS”), Grace Brusseau, and Leonard Brusseau (“Defendants”) and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All current and former non-exempt employees of Defendants who were employed at any time from December 22, 2013 to [DATE OF PRELIMINARY APPROVAL OR A SOONER DATE PER THE PROCEDURE SET FORTH IN PARAGRAPH 74 OF THE SETTLEMENT AGREEMENT, AT DEFENDANTS' OPTION].

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement. The Settlement will resolve all Class Members' Class Released Claims, as described below, from December 22, 2013 to [DATE OF PRELIMINARY APPROVAL OR A SOONER DATE PER THE PROCEDURE SET FORTH IN PARAGRAPH 74 OF THE SETTLEMENT AGREEMENT, AT DEFENDANTS' OPTION] (the "Class Period"). The Court will hold a Final Approval Hearing concerning the proposed settlement on [DATE OF FINAL APPROVAL HEARING] at [TIME] a.m. in Department 21 of the above-entitled Court, located at 1225 Fallon Street, Oakland, California 94612.

A. How Will I Know If The Court Changes The Date Or Location Of The Final Approval Hearing?

If the Court changes the date of the Final Approval hearing, you will not receive notice of the change. It is strongly suggested that, prior to the Final Approval hearing, you: (1) contact the Settlement Administrator to find out if the Final Approval hearing is still scheduled for [DATE] at [TIME] a.m. in Department 21; (2) contact Class Counsel; or (3) check the Court's docket for this Class Action to see if the hearing is still scheduled on [DATE] at [TIME] a.m. in Department 21.

To check the Court's docket, go to Online Service link below:

<https://eportal.alameda.courts.ca.gov/?q=node/388>

Click on "Case Number Search," then, either "Log In" or click on "Create new account," and follow the instructions. Once logged in you will be prompted to type in the case number, which is RG17887036, and click on "Search." The case name information will appear below the "Search" button. Click on "Garcia VS Universal Building Services and Supply Co." which is located below the title "Case Name". Then click on "Future Hearings." The date, time, description and location of the Final Approval hearing will be listed. This process is free.

Images of every document filed in the case may be viewed through the 'Register of Actions' at a minimal charge.

B. I Want To Attend The Hearing. What Are The Court's Remote Appearance and COVID-19 Procedures?

You may appear at the Final Approval Hearing, either in person, remotely or through an attorney at your own expense, provided you notify the Court of your intent to do so. All notices of intent to appear at the Final Approval Hearing must (a) clearly identify the case name and number, *Garcia v. Universal Building Services and Supply Co.*, Case Number RG17887036), (b) be submitted to the Court either by mailing the Notice to: Clerk of Court, Superior Court of California, County of Alameda, Rene C. Davidson Alameda County Courthouse, 1225 Fallon Street, Oakland, California 94612; or emailing to: Clerk of Court, Superior Court of California, County of Alameda, Rene C. Davidson Alameda County Courthouse at Dept21@alameda.courts.ca.gov or by filing in person

at any location of the Superior Court, County of Alameda that includes a facility for civil filings, (c) also be mailed to the law firms identified in Section 8, below, and (d) be filed or postmarked on or before [Sixty (60) calendar days after Notice], 2023. If your Notice was returned as undeliverable and you are sent a re-mailed Settlement Notice, you are given an extension of fifteen (15) calendar days from the original 60-day Response Deadline to postmark your notice to appear.

If you wish to attend the Final Approval Hearing remotely, please check the Court's website <https://www.alameda.courts.ca.gov/general-information/remote-appearances> for the Court's current procedures for attendance at hearings including remote appearances. On the morning of the hearing, the Court will provide a link to the Final Approval hearing on its website.

C. If I Do Not Go To The Final Approval Hearing, How Will I Know If The Court Granted Final Approval Of The Settlement And Entered Final Judgment?

You may contact the Settlement Administrator (see Sections 6 and 10 below), or Class Counsel (see Section 8 below), to find out if the Court granted Final Approval and entered Final Judgment. If you wish to obtain a copy of the Final Judgment, it will be posted on the Settlement Administrator's website at <https://www.simpluris.com> and is also available on the Court's docket (see above for instructions on how to access).

2. What is this class action lawsuit about?

On December 22, 2017, Plaintiffs filed a Complaint in the Superior Court of the State of California, County of Alameda (the "Complaint"), which was thereafter amended through a First Amended Class Action Complaint on February 16, 2023, to allege the following claims against Defendants: (1) failure to provide meal periods or pay premiums in lieu thereof at the regular rate; (2) failure to provide rest periods or pay premiums in lieu thereof at the regular rate; (3) failure to furnish timely wages; (4) failure to pay minimum wage and wages for all hours worked; (5) failure to pay and/or accurately calculate wages, overtime wages, and double time wages; (6) failure to reimburse for business expenses; (7) failure to timely pay wages during and upon termination of employment (*i.e.* waiting time penalties); (8) failure to furnish accurate wage statements, and keep payroll records; (9) failure to keep accurate time and payroll records; (10) violation of California's Unfair Competition Law based upon the alleged Labor Code violations; and (11) Violation of the California Private Attorneys General Act of 2004 ("PAGA") ("Operative Complaint" or "Action"). Plaintiffs alleged individual liability against individual defendants as well.

Defendants deny and dispute all such claims. Specifically, Defendants contend Plaintiffs and the Class Members were properly compensated for wages under California law, including required minimum wages and overtime compensation; Plaintiffs and the Class Members were provided with meal and rest periods in compliance with California law; Defendants did not fail to pay to Plaintiffs or any Class Members any wages allegedly due at the time of their termination; Defendants complied with California wage statement and payroll records requirements; Defendants paid Plaintiffs and Class members for all business expenses, if any; Defendants are not liable for any of the penalties claimed or that could be claimed in the Action; and this Action cannot be maintained as a class action.

The Court granted preliminary approval of the Settlement on [INSERT PRELIMINARY APPROVAL DATE]. At that time, the Court also preliminarily approved the Plaintiffs to serve as the Class Representatives, and the lawyers at The Villegas Law Firm, APC; and California Trial Law Group, PC to serve as Class Counsel.

Neither the Court nor any other fact finder has decided whether the claims brought by the Class Representatives or Defendants' defenses to those claims, are meritorious. By approving the Settlement and issuing this Class Notice, the Court is not suggesting which side would win or lose this case if it went to trial. Rather, the Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and any final determination of those issues will be made at the Final Approval Hearing. Defendants reserve the right, if for any reason the Settlement is not approved, to contest any factual or legal allegations in the Action including whether this Action should proceed as a class action.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an "all in" maximum amount of Three Million Five Hundred-Fifty Thousand Dollars and Zero Cents (\$3,550,000.00) (the "Gross Settlement Amount") to fund the settlement of this Action. The Gross Settlement Amount includes all Individual Settlement Payments to Class Members contemplated by the Settlement, the Settlement Administration Costs, the Class Representatives' Incentive Awards, Class Counsels' attorney's fees and costs, and the PAGA Payment for civil penalties, 75% of which will be allocated to the Labor & Workforce Development Agency ("LWDA") and 25% of which will be distributed as PAGA Employee Payments to all current and former California non-exempt, hourly employees of Defendants from August 19, 2021 through the date of preliminary approval of the settlement [or a sooner date per the procedure set forth in paragraph 74 of the settlement agreement, at Defendants' option], including those who submit a valid and timely Request for Exclusion but are nevertheless bound by the release of PAGA claims ("PAGA Employees"). Any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages shall be separately paid by UBS.

Funding of the Settlement. Within thirty (30) calendar days after the Effective Date, Defendants will transfer the Gross Settlement Amount to the Settlement Administrator. The "Effective Date" means the date on which all of the following events have occurred ("Effective Date"): (i) the Settlement Agreement has been executed by Plaintiffs, Defendants, Class Counsel and Defendants' Counsel; (ii) the Court has given preliminary approval to the Settlement; (iii) this Notice has been sent to the Class Members, providing them the opportunity to object to the Settlement, and the opportunity to opt out of the Settlement; (iv) the Notice has been sent to the LWDA; (v) the Court has held a formal fairness hearing and entered the Court's Final Order and Judgment; and (vi) the later of the following events: (A) five (5) calendar days after the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed (*i.e.*, sixty-five (65) days from the date the court grants final approval); (B) five (5) business days after any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (C) five (5) business days after any appeal, writ or other appellate proceeding has upheld the Court's Final Order and Judgment with no right to pursue further remedies or relief.

Disbursement of Settlement. Within fourteen (14) calendar days of the transfer of the Gross Settlement Amount to the Settlement Administrator, and upon the Effective Date being met, the Settlement Administrator will disburse: (1) the Individual Settlement Payments to be paid from the Net Settlement Amount to be paid to Settlement Class Members; (2) the Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representatives' respective Incentive Awards paid to the Class Representatives, as approved

by the Court; (4) Administrative Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and PAGA Employees, as approved by the Court.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount as follows, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before Settlement Shares are made to Class Members who do not request exclusion (“Settlement Class Members”):

- **Settlement Administration Expenses.** Payment to the Settlement Administrator, estimated not to exceed \$23,125, for expenses, including without limitation expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing Settlement Shares and tax forms, and handling inquiries and uncashed checks.
- **Class Counsel’s attorney’s fees and costs.** Payment to Class Counsel of reasonable attorneys’ fees and costs not to exceed thirty-three point three percent (33.3%) of the Gross Settlement Amount not to exceed One Million One Hundred Eighty-Two Thousand and One Hundred Fifty Dollars and Zero Cents (\$1,182,150.00), and reimbursement of actual costs and expenses associated with Class Counsel’s litigation and settlement of the Action, in an amount not to exceed Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00). Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money) and has been paying all litigation costs and expenses.
- **Class Representative Incentive Award.** Class Representative Incentive Awards in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) to each of the three Plaintiffs, or such lesser amount as may be approved by the Court, to compensate the Plaintiffs for services on behalf of the Class in initiating and prosecuting the Action, for the risks Plaintiffs undertook, and as consideration for their Complete Release of All Claims against Released Parties.
- **PAGA Payment.** A payment of Fifty Thousand Dollars and Zero Cents (\$50,000.00) shall be allocated as the PAGA Payment. Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00), representing 75% of the PAGA Payment, shall be paid to the LWDA. Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00), representing 25% of the penalties paid pursuant to PAGA, shall be distributed to the PAGA Employees as PAGA Employee Payments.

Calculation of Individual Settlement Payments to Class Members. After all of the payments of the court-approved Class Counsel’s attorney’s fees and costs, the Class Representative Incentive Awards, the PAGA Payment, and the Settlement Administration Costs are deducted from the Gross Settlement Amount, the remaining portion is called the “Net Settlement Amount” and shall be distributed as Individual Settlement Payments to the Settlement Class Members. The Settlement Administrator will calculate the Individual Settlement Payments from the Net Settlement Amount to each Settlement Class Member. The Individual Settlement Payment for each Settlement Class Member will be calculated based upon the following: (a) each Settlement Class Member’s workweeks worked count, which shall be the sum of the total number of workweeks the Settlement Class Member worked during the Class Period; (b) divided by the combined sum of all Settlement Class Members’ workweeks worked count; and (c) multiplied by the value of the Net Gross Settlement Amount.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Settlement Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty percent (20%) of each Settlement Class Member's Individual Settlement Payment is in settlement of wage claims (the "Wage Portion"). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. The remainder of each Settlement Class Member's Individual Settlement Payment is in settlement of claims for penalties and interest allegedly due to employees (collectively the "Non-Wage Portion"). The Non-Wage Portion and the PAGA Employee Payment shall not be subject to wage withholdings and shall be reported on IRS Form 1099. The employee portion of all applicable income and other taxes on the Non-Wage Portion will be the responsibility of the Settlement Class Members. Neither Class Counsel nor Defendants' Counsel intend anything contained in this Notice to constitute advice regarding taxes or taxability. The tax issues for each Settlement Class Member are unique to him/her/they, and each Settlement Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering the Judgment.

4. What Do I Release Under the Settlement?

Class Released Claims. As of the date Defendants fully fund the Gross Settlement Amount, all Settlement Class Members will fully and finally release Defendants and any of its past, present and future direct or indirect parents, subsidiaries, predecessors, any of their past, present and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as well as each of its past, present and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual, including but not limited to Grace Brusseau, and Leonard Brusseau, or entity which could be jointly liable with Defendants (collectively, the "Released Parties") from all claims pleaded in the Operative Complaint and which could have been alleged under state or federal law under the same or similar facts, allegations and/or claims pleaded in the Action for work performed through the date of preliminary approval [or a sooner date per the procedure set forth in paragraph 74 of the settlement agreement, at Defendants' option], including:

- Claims set forth in the Action, specifically, (1) failure to provide meal periods or pay premiums in lieu thereof at the regular rate (Violation of Labor Code §§ 512, 226.7, and the applicable Wage Order [IWC Wage Order 5-2001]); (2) failure to provide rest periods or pay premiums in lieu thereof at the regular rate (Violation of Labor Code § 226.7, and the applicable Wage Order [IWC Wage Order 5-2001]); (3) failure to furnish timely wages (Violation of Labor Code § 204); (4) failure to pay minimum wage and wages for all hours worked; (Violations of Labor Code §§ 200; 218.5, 218.6, 1194, 1194.2; 1197, and 1197.1); (5) failure to pay and/or accurately calculate wages, overtime wages, and double time wages (Violations of Labor Code §§ 218.5, 218.6, 510, 1194; and the applicable Wage Order [IWC Wage Order 5-2001]); (6) failure to reimburse for business expenses (Violation of Labor Code §§ 221, 2800 and 2802 and the applicable Wage Order [IWC Wage Order 5-2001]); (7) failure to timely pay wages during and upon termination of employment (*i.e.* waiting time penalties) (Violation of Labor Code §§ 201, 202, 203, 218.5

and 218.6); (8) failure to furnish accurate wage statements, and keep payroll records (Violation of Labor Code § 226); (9) failure to keep accurate time and payroll records (Violation of Labor Code §§ 1174, 1174.5 and the applicable Wage Order [IWC Wage Order 5-2001]); (10) any and all individual liability against any employer or other person acting on behalf of an employer (Violation of Labor Code §§ 558.1); (11) violation of California's Unfair Competition Law based upon the alleged Labor Code violations (Violation of Business & Professions Code § 17200 *et seq.*; Labor Code § 90.5); and (12) Violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698, *et seq.*) predicated on the same or similar facts and/or claims alleged in the Lawsuit and/or any PAGA letter sent to the LWDA by Plaintiffs in or prior to the Lawsuit, as well as any claims that could have been pled under the California Labor Code and California Industrial Welfare Commission Wage Orders that were alleged or which could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Action;

- Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or punitive damages alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the complaints filed as part of the Action;
- Any and all other claims under California common law, the federal law, and the California Business and Professions Code alleged in or that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Action and based on the alleged Labor Code violations.

This means that, if you do not timely exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants and any other Released Party about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

PAGA Released Claims. Upon Defendants' funding of the Gross Settlement Amount, Plaintiffs, the LWDA, and the State of California, release the Released Parties of and from all claims for civil penalties for violation of the California Labor Code Private Attorney General Act of 2004 (Labor Code section 2698 *et seq.*) that could have been sought by the Labor Commissioner identified in the PAGA letter dated October 24, 2022 that Plaintiffs sent to the LWDA ("PAGA Letter"), and those that were alleged in the PAGA Letter from August 19, 2021 through the [DATE OF PRELIMINARY APPROVAL Or A SOONER DATE PER THE PROCEDURE SET FORTH IN PARAGRAPH 74 OF THE SETTLEMENT AGREEMENT, AT DEFENDANTS' OPTION] ("PAGA Period").

In light of the binding nature of a PAGA judgment on non-party employees pursuant to *Arias v. Superior Ct. (Dairy)*, 46 Cal. 4th 969 (2009), PAGA Employees employed by UBS on or after August 19, 2021, who exclude themselves from the Class shall still receive a PAGA Employee Payment directly from the Settlement Administrator for the amount of each such individual's estimated share of the PAGA Settlement Amount as calculated by the Settlement Administrator. PAGA Employees will not have the opportunity to opt out of, or object to, the PAGA Released Claims. Further, the PAGA Employees are bound by the PAGA Released Claims regardless of whether they cash and/or otherwise negotiate their PAGA Employee Payment, to the extent the LWDA has released the PAGA claims in connection with this Agreement, no PAGA Employee may pursue these same PAGA claims released herein in another action. The PAGA Employees are collaterally estopped from pursuing the PAGA claims released and compromised by the LWDA. No PAGA Employee may pursue the same PAGA claims in a representative capacity

that are released here in another action. After the Court grants final approval of the Settlement, Plaintiff will provide the LWDA with a copy of the Judgment which will include a list of the PAGA Employees during the PAGA Period.

5. How much will my payment be?

According to UBS's records, the number of qualifying workweeks worked by you during the Class Period is <<_____>> and the number of qualifying pay periods worked by you during the PAGA Period is <<_____>>.

Based on this information, your estimated Individual Settlement Payment is <<_____>> and your PAGA Employee Payment is <<_____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than **[INSERT DATE SIXTY (60) DAYS AFTER THE MAILING OF THE CLASS NOTICE]**. If your Notice was returned as undeliverable and you are sent a re-mailed Settlement Notice, you are given an extension of fifteen (15) calendar days from the original 60-day Response Deadline to postmark your challenge.

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. Checks for your Individual Settlement Payments will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Simpluris, Inc. which may be contacted at 888-369-3780, CaseSupport@Simpluris.com, or at P.O. Box 26170, Santa Ana, CA 92799.

The Court will hold a Final Approval Hearing on _____, 2023 at _____ to decide whether to approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately three months after this hearing. If there are objections or appeals, resolving them can take time, usually more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will not receive an Individual Settlement Payment from the Settlement**, and you will not release the Class Released Claims. Because you cannot opt out of any PAGA settlement, if you opt out you will still be releasing any PAGA Released Claims that may apply to you as part of the Settlement. **If you wish to object to the Settlement as described below in Section 8, you cannot opt out of the Settlement.**

To opt out, you must submit a written request to opt out to the Settlement Administrator via fax or mail at the address below requesting to be excluded from the Settlement. To be considered valid, your opt out request must (1) state your name, address, telephone number, and last four digits of your social security number; (2) state your intention to exclude yourself from or opt-out of the Settlement (e.g. "I want to exclude myself from this settlement. I also understand that I retain all rights to sue the Defendants for the claims asserted in this lawsuit, *Alfredo Garcia et al. v. Universal Building Services and Supply Co., et al.*, Alameda County Superior Court, Case No. RG17887036."); (3) be signed by you or your lawful representative; and (4) be addressed to the

Settlement Administrator. To be considered timely, your opt out request must be faxed or postmarked no later than [INSERT DATE SIXTY (60) DAYS AFTER THE MAILING OF THE CLASS NOTICE]. If your Notice was returned as undeliverable and you are sent a re-mailed Settlement Notice, you are given an extension of fifteen (15) calendar days from the original 60-day Response Deadline to postmark your request for exclusion. Late opt out requests will not be considered.

If you timely mail a complete and valid opt out request, you will no longer be a member of the class and you will not be eligible to object to the terms of the Settlement or receive money under the Settlement except for that portion of the settlement allocated to PAGA penalty payments. Except for the PAGA release, you will not be bound by the terms of the Settlement, and may pursue any valid claims you may have, at your own expense, against Defendants. Individuals otherwise meeting the definition of Class Members who exclude themselves from the class and were employed during the PAGA Period will still receive a payment for the amount of each such individual's estimated share of the PAGA Payment that was included by the Settlement Administrator in calculating the Claim Amount and will still be bound by the PAGA Released Claims.

8. How do I tell the Court that I don't agree with the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, the Class Counsel's attorney's fees, and costs, and/or the Class Representative Incentive Awards, either in writing or in person. Objections that are in writing and must be submitted to the Settlement Administrator at the address below, or the Court, at the address or email below and provide: (1) the Class Member's name, address, telephone number; (2) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (3) list identifying witness(es) the objector may call to testify at the Final Approval Hearing; (4) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval Hearing; (5) state whether the objection applies only to the objector, to a specific subset of the Class, or to the entire Class; (6) be signed by the Class Member or his or her lawful representative; (7) clearly identify the case name and number, *Garcia v. Universal Building Services and Supply Co.*, Case Number RG17887036; and (8) be postmarked no later than sixty (60) calendar days from the mailing of the Notice.

All written objections must be mailed to the Settlement Administrator at P.O. Box 26170, Santa Ana, CA 92799, no later than [INSERT DATE SIXTY (60) DAYS AFTER THE MAILING OF THE CLASS NOTICE] or to the Court either by mailing to: Clerk of Court, Superior Court of California, County of Alameda, Rene C. Davidson Alameda County Courthouse, 1225 Fallon Street, Oakland, California 94612; or emailing to: Clerk of Court, Superior Court of California, County of Alameda, Rene C. Davidson Alameda County Courthouse at Dept21@alameda.courts.ca.gov or by filing in person at any location of the Superior Court, County of Alameda that includes a facility for civil filings. If your Notice was returned as undeliverable and you are sent a re-mailed Settlement Notice, you are given an extension of fifteen (15) calendar days from the original 60-day Response Deadline to postmark your objection.

Alternatively, Class Members may appear at the Final Approval Hearing on [REDACTED] at [REDACTED] to make an oral objection without submitting a written objection. You can refer to Section 1.B, above for instructions on how to submit a notice to appear at the Final Approval Hearing. Class Members shall have no right to object to the PAGA Released Claims or PAGA Payment.

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object and you will still be mailed a check for your Individual Settlement Payment. Any Class Member who does not object in the manner provided in this Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

The addresses for Parties' counsel are as follows:

Class Counsel:

Virginia Villegas
THE VILLEGAS LAW FIRM, APC
3330 Geary Blvd. 2nd Fl West
San Francisco, California 94118
Telephone: (415) 989-8000
Facsimile: (415) 989-8028

Ike M. Kaludi, Jr.
CALIFORNIA TRIAL LAW GROUP, PC
828 San Pablo Ave. Suite 109
Albany, CA 94706
Telephone: (415) 967-4900
Facsimile: (415) 967-4901

Counsel for Defendants:

Alan S. Levins,
William A. Cosmopulos
LITTLER MENDELSON, P.C.
333 Bush Street, 34th Floor
San Francisco, CA 94104
Telephone: (415) 433-1940
Facsimile: (415) 399-8490

Luis E. Lorenzana
LITTLER MENDELSON, P.C.
501 W. Broadway, Suite 900
San Diego, CA 92101
Tel: (619) 232-0441
Fax: (619) 232-4302

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at [REDACTED] on [REDACTED], 2023, in Department 21 of the Superior Court of California, for the County of Alameda, located at 1225 Fallon Street, Oakland, California 94612. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing unless you are objecting, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 888-369-3780 or email at CaseSupport@Simpluris.com or write to *Garcia v. Universal Building Services and Supply Co.*, Settlement Administrator, c/o [REDACTED] at P.O. Box 26170, Santa Ana, CA 92799.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by examining the Court's file via <https://portal.alameda.courts.ca.gov/?q=node/388>

Click on "Case Number Search," then, either "Log In" or click on "Create new account," and follow the instructions. Once logged in you will be prompted to type in the case number, which is RG17887036, and click on "Search." The case name information will appear below the "Search"

button. Click on “Garcia VS Universal Building Services and Supply Co.” which is located below the title “Case Name”. Images of every document filed in the case may be viewed through the 'Register of Actions' at a minimal charge.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall deliver all unclaimed funds to the State of California’s State Controller Unclaimed Property Fund with an identification of the amount of unclaimed funds attributable to each Class Member. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.