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*Attorneys for Defendant
Arthur J. Parent, Jr.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE – COMPLEX CIVIL DIVISION

Heather Turman and Kimberly Dang,
individually, on behalf of all others similarly
situated, and on behalf of the general public,
and Shannon Payne, Lonnie Finley, Joshua
Allen, JW Perkins, and Kelliane Ryan,
individually,

Plaintiff,

vs.

Koji's Japan Incorporated dba Koji's Shabu and
Koji's Sushi & Shabu, Arthur J. Parent, Jr., and
DOES 1 through 50 inclusive,

Defendants.

Case No. 30-2010-00425532-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO:

Judge: Hon. William D. Claster
Dept.: CX 104

**CLASS, FAIR LABOR STANDARDS
ACT (FLSA), AND PRIVATE ATTORNEYS
GENERAL ACT (PAGA)
REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND
STIPULATION**

Date Action Filed: November 18, 2010

Trial Date: None Set

1 This Class, FLSA, and PAGA Representative Action Settlement Agreement And Stipulation
2 (the “Settlement Agreement” or “Settlement”) is entered into between plaintiffs Heather Turman,
3 Kimberly Dang, Shannon Payne, Lonnie Finley, Joshua Allen, JW Perkins, and Kellianne Ryan,
4 individually and on behalf of all persons who do not opt out of the Class (as defined below),
5 withdraw from the federal Fair Labor Standards Act case, and are a part of the Private Attorneys
6 General Act (PAGA) representative action (collectively, “Plaintiffs”), and defendants Koji’s
7 Japan, Incorporated (“KJI”) and Arthur J. Parent (“Parent”).

8 **DEFINITIONS**

9 1. **Action**. Action means the class action, FLSA, and PAGA representative lawsuit
10 filed by Heather Turman, Kimberly Dang, Shannon Payne, Lonnie Finley, Joshua Allen, JW
11 Perkins, and Kellianne Ryan against Koji’s Japan, Incorporated (“KJI”) and Arthur J. Parent, Jr.
12 (“Parent”), in the Orange County Superior Court (the “Court”), entitled *Heather Turman, et al. v.*
13 *Koji’s Japan Incorporated, et al.*, Case No. 30-2010-00425532-CU-OE-CXC.

14 2. **Aggrieved Employees**. Aggrieved employees means all Class Members who
15 worked for KJI at any time from November 16, 2009 through the date the KJI’s restaurants closed.
16 A list of Aggrieved Employees is attached as **Exhibit A**. Amanda Quiles is not an Aggrieved
17 Employee, and has waived any entitlement to participate in this Settlement. If the parties desire
18 to compensate anyone who would otherwise have fallen within the class definition in this case,
19 then the Total Settlement Amount must increase, pro rata, based upon the number of class
20 members, proportionally, to compensate for Defendant’s additional exposure.

21 3. **Class Counsel**. Class Counsel shall mean Bryan Schwartz Law.

22 4. **Class Notice**. Class Notice means the Notice of Class, FLSA, and PAGA
23 Representative Action Settlement attached as **Exhibit B** hereto, or a substantially similar notice
24 approved by the Court.

25 5. **Class Period**. Class Period means the period beginning on November 16, 2006 and
26 extending through the date the KJI’s restaurants closed.

27 6. **Class or Class Members**. Class Members means all individuals who were
28 employed, directly or indirectly, as non-exempt servers, hosts/hostesses, floor managers, sushi

1 chefs, assistant general managers, bussers, dishwashers, bartenders, kitchen helpers, and
2 “barbacks” at Koji’s Japan, Inc. during the Class Period; provided, however that Amanda Quiles
3 is not a Class Member, and has waived any entitlement to participate in this Settlement. A list of
4 Class Members is attached as **Exhibit C**.

5 7. Court. “Court” means the California Superior Court, County of Orange.

6 8. Defendants. Defendants means Koji’s Japan, Incorporated and Arthur J. Parent, Jr.

7 9. Effective Date. The “Effective Date” shall be: (i) if no motion to intervene,
8 objection, or motion to vacate the judgment is filed, the last day for filing a motion to vacate the
9 judgment; (ii) if a motion to intervene, objection, or motion to vacate the judgment is filed, the
10 Effective Date shall be the last day for filing an appeal, review, or writ from the ruling on the
11 motion to intervene, the ruling on the objection, or the ruling on the motion to vacate judgment, if
12 no appeal, review, or writ has been filed by that date; or (iii) if an appeal, review, writ, or other
13 challenge is sought from the Final Order and Judgment, the day after the Final Order and Judgment
14 is affirmed or the appeal, review, or writ is dismissed or denied, and the Final Order and Judgment
15 is no longer subject to further judicial review.

16 10. Final Hearing Date. “Final Hearing Date” means the date set by the Court for the
17 hearing on final approval of the Settlement. The hearing on the Final Hearing Date is referred to
18 in this Settlement Agreement as the Final Approval Hearing.

19 11. Final Order and Judgment. “Final Order and Judgment” means the Court’s order
20 granting final approval of the Class Settlement and entering judgment, substantially similar to one
21 which the Named Plaintiffs will submit to the Court with the motion for final approval of the
22 Settlement. Named Plaintiffs will provide a copy of the Final Order and Judgment to Defendants’
23 counsel to review and provide comments before it is submitted to the Court. The Final Order and
24 Judgment will include a provision by which the FLSA claims asserted by the Named Plaintiffs are
25 dismissed with prejudice.

26 12. Named Plaintiffs. Named Plaintiffs means Heather Turman, Kimberly Dang,
27 Shannon Payne, Lonnie Finley, Joshua Allen, JW Perkins, and Kelliane Ryan.

28 13. Notice Period. Notice Period means the time period commencing on the date the

1 Class Notice is mailed to Class Members and ending 45 days thereafter.

2 14. PAGA Claims. “PAGA Claims” means those claims in the Action brought
3 pursuant to the California Private Attorneys General Act (PAGA), Labor Code §§ 2698 *et seq*.

4 15. PAGA Period. PAGA Period means the period beginning on November 16, 2009
5 and extending through the date KJI’s restaurants closed.

6 16. Participating Class Member. “Participating Class Member” means each Class
7 Member who has not timely opted out of the Class Settlement pursuant to Paragraph 35 of the
8 Agreement; “Plaintiff Class” means a class of all Participating Class Members.

9 17. Parties. “Parties” means the Defendants and the Named Plaintiffs, individually and
10 on behalf of all Class Members and Aggrieved Employees (defined in Paragraph 2).

11 18. Preliminary Approval Order. “Preliminary Approval Order” means an order from
12 the Court (a) preliminarily approving the Class Settlement; ; and (b) approving the PAGA
13 Settlement.

14 19. Released Parties. “Released Parties” means and includes Arthur J. Parent, Jr.,
15 Koji’s Japan Incorporated, AmericasPrinter, LLC (dba America’s Printer), and their respective
16 current and former parents, predecessors or successors, holding companies, affiliated companies
17 or entities, owners, shareholders, members, officers, directors, managers, employees, and agents.

18 20. Settled Claims or Released Claims. “Settled Claims” or “Released Claims”
19 includes the class claims and means any and all wage-and-hour and Labor Code claims, known or
20 unknown, contingent or accrued, against Defendants and the Released Parties that arose during the
21 Class Period and have been, or could have been, asserted against Defendants or any of the other
22 Released Parties and that arise from the facts, matters, transactions or occurrences alleged in the
23 Action. Without limiting the foregoing, and in addition to the foregoing, the Settled Claims include
24 claims for failure to pay regular wages, failure to pay overtime compensation, failure to provide
25 and maintain complete and accurate itemized wage statements; failure to provide meal periods and
26 rest breaks or additional pay in lieu thereof; untimely payment of wages at the time of termination;
27 violations of California Labor Code §§ 200, 201, 202, 203, 204, 218, 218.6, 221, 223, 225.5, 226,
28 226.3, 226.7, 350, 351, 510, 512, 558, 1174, 1182.11, 1182.12, 1182.13, 1187, 1194, 1194.2, 1196,

1 1197, 1197.1, 1198, the applicable California Wage Orders, and all related or corresponding
2 federal laws, including the Fair Labor Standards Act; and violation of California Business and
3 Professions Code Section 17200 *et seq.* In addition, with respect to Aggrieved Employees, the
4 Settled Claims include PAGA Claims that arose during the PAGA Period.

5 21. Settlement Administrator. “Settlement Administrator” means Rust Consulting Inc.,
6 subject to the Court’s approval.

7 **RECITALS**

8 22. On or about November 16, 2010, Named Plaintiffs Turman and Dang, plus former
9 named Plaintiff Quiles, filed the Action against KJI and Parent. On October 23, 2015, the Named
10 Plaintiffs filed a Fifth Amended Complaint alleging in the Action that Defendants violated various
11 wage-and-hour laws, including: (1) failure to pay overtime in violation of California Labor Code
12 §§ 510, 1194, 1198 and IWC Orders; (2) failure to pay earned wages upon discharge, waiting time
13 penalties in violation of California Labor Code §§ 200-203; (3) failure to provide timely, accurate,
14 itemized wage statements in violation of California Labor Code § 226; (4) failure to provide and/or
15 authorize meal and rest periods/unpaid wages in violation of California Labor Code §§ 226.7 and
16 512 and IWC Wage Orders; (5) failure to compensate for all hours worked in violation of Labor
17 Code §§ 221 and 223 and IWC Wage Orders; (6) misappropriation of tips by employer and
18 employer’s agents in violation of California Business and Professions Code § 17200, *et seq.*; (7)
19 failure to pay the minimum wage in violation of California Labor Code §§ 1182.11, 1182.12,
20 1182.13, 1194, 1197, the California Minimum Wage Order, MW-2001; (8) violations of the Fair
21 Labor Standards Act, 29 U.S.C. §§ 206, 207, and 216; (9) unlawful and/or unfair business practices
22 in violation of California Business and Professions Code § 17200, *et seq.*; (10) retaliation for
23 protected activity in violation of California Labor Code § 98.6 (as to former named Plaintiff
24 Quiles); (11) retaliation for protected activity in violation of Fair Labor Standards Act § 215(a)(3)
25 (as to former named Plaintiff Quiles); and (12) civil penalties pursuant to California Labor Code
26 § 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004.

27 23. Defendants deny that they engaged in any misconduct in connection with the wage-
28 and-hour practices associated with the Class Members. Defendants further deny that they have

any liability or engaged in wrongdoing of any kind associated with the claims alleged in the Action. Defendants contend that they have complied with both federal and state wage-and-hour laws, and all other laws regulating their relationships with the Class Members, including the Named Plaintiffs.

24. After years of sporadic negotiations and more than 12 months of nearly continuous negotiations, assisted by expert wage-and-hour class-action mediator Steve Pearl, the Parties agreed to a settlement of the Action, subject to Court approval. The Parties further agreed to enter into this Agreement to memorialize their settlement of the Action.

25. Class Counsel has investigated the facts relating to the Action. Class Counsel is of the opinion that the settlement documented by this Settlement Agreement is fair, reasonable, and adequate, and in the best interest of the Class in light of all known facts and circumstances, including the risk of significant delay, Defendants' financial condition, defenses asserted to the merits and the class action status of this action, and the numerous potential appellate issues. While Defendants specifically deny any liability in the Action, Defendants have agreed to enter into this settlement to avoid the costs associated with defending the Action.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the recitals listed above and the promises and warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings set forth below, the Named Plaintiffs, individually and on behalf of the Class Members, and Defendants agree that the Action shall be, and is finally and fully compromised and settled on the following terms and conditions:

26. Non-Admission Of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, that they have violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract, violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to the Class.

1 Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected
2 with it, shall be construed as an admission or concession by Defendants of any such violations or
3 failures to comply with any applicable law. Except as necessary in a proceeding to enforce the
4 terms of this Agreement, this Agreement and its terms and provisions shall not be offered or
5 received as evidence in any action or proceeding to establish any liability or admission on the part
6 of Defendants or to establish the existence of any condition constituting a violation of, or a non-
7 compliance with, federal, state, local or other applicable law.

8 27. Conditional Nature Of Class Settlement. The Parties intend the Settlement to be
9 contingent upon the preliminary and final approval of each and every term of this Agreement,
10 without material modification. If the Court does not so approve this Settlement Agreement, the
11 Parties intend this Agreement to become null and void, and unenforceable, in which event the
12 settlement terms set forth herein, including any modifications made with the consent of the Parties,
13 and any action taken or to be taken in connection with this Agreement shall be terminated and shall
14 become null and void and have no further force or effect.

15 a. In the event that the Court does not grant preliminary or final approval of
16 the Parties' settlement, or in the event that this Settlement Agreement shall terminate or the
17 settlement embodied herein does not become effective for any reason, the Agreement and all
18 negotiations, court orders and proceedings relating thereto shall be without prejudice to the rights
19 of the Named Plaintiffs, Class Members and Defendants, each of whom shall be restored to their
20 respective positions existing prior to the execution of this Settlement Agreement, and evidence
21 relating to the Settlement Agreement and all negotiations shall not be discoverable or admissible
22 in the Action or any other litigation.

23 b. If the Court grants the Preliminary Approval Order, but does not grant final
24 approval of the Parties' settlement, then the Preliminary Approval Order will be vacated in its
25 entirety. In addition, if the Court does not grant final approval of the Parties' settlement, neither
26 this Settlement Agreement, the Preliminary Approval Order, nor any other document in any way
27 relating to the foregoing, shall be relied upon, referred to or used in any way in this or any other
28 action.

1 28. Release Of Claims. As of the occurrence of the Effective Date, the Named
2 Plaintiffs and all Participating Class Members hereby do and shall be deemed to have fully, finally,
3 and forever released, settled, compromised, relinquished and discharged any and all of the
4 Released Parties of and from any and all Settled Claims that arose during the Class Period.

5 a. In giving this release, the Named Plaintiffs and all Participating Class
6 Members acknowledge that they are aware that facts may be discovered in addition to or different
7 from those which they now know or believe to be true with respect to the subject matter of the
8 release, but that they intend to, and by participating in this settlement fully, finally, and forever
9 settle and release any and all Released Parties from any and all Settled Claims without regard to
10 the subsequent discovery or existence of such additional or different facts.

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

16 c. The Named Plaintiffs and Class Counsel represent, covenant, and warrant
17 that they have not directly or indirectly assigned, transferred, encumbered or purported to assign,
18 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
19 cause of action, or rights released and discharged by this Settlement, except as set forth in this
20 Agreement.

21 d. Full Release By Named Plaintiffs. In addition to the Released Claims, and
22 in further consideration for their enhancement payments discussed in paragraph 29.c, the Named
23 Plaintiffs fully release and discharge Defendants and the other Released Parties from any all claims
24 and causes of action that the Named Plaintiffs have ever had arising out of or related to any act,
25 omission, event, fact or other thing that existed or occurred on or prior to the Final Hearing Date.
26 This release by the Named Plaintiffs includes a waiver of their rights under Civil Code § 1542,
27 which reads as follows: “A general release does not extend to claims that the creditor or releasing
28 party does not know or suspect to exist in his or her favor at the time of executing the release and

1 that, if known by him or her, would have materially affected his or her settlement with the debtor
2 or released party.”

3 29. Settlement Payments And Calculation Of Claims. Subject to final Court approval
4 and the conditions specified in this Agreement, and in consideration of the mutual covenants and
5 promises set forth in this Agreement, Defendants agree to make a total, all-in, non-reversionary
6 settlement payment under this Agreement in the amount of \$2,200,000 (the “Gross Settlement
7 Amount”). The Gross Settlement Amount includes, but is not limited to, payments to be made to
8 Participating Class Members, Class Counsel’s attorneys’ fees and costs, any enhancement payment
9 to the Named Plaintiffs, payments under PAGA to the Labor and Workforce Development Agency,
10 the employees’ share of payroll taxes, and payment of all other applicable taxes. The Gross
11 Settlement Amount does not include the Defendants’ share of payroll taxes, which Defendants will
12 pay in addition to the Gross Settlement Amount. The Parties agree, subject to Court approval, that
13 the Gross Settlement Amount shall be apportioned as follows:

14 a. At the final approval hearing, Class Counsel will apply to the Court for an
15 award of attorneys’ fees of no more than \$1,040,000, which equals approximately 47.27% of the
16 Gross Settlement Amount, and far less than Class Counsel’s claimed lodestar of over \$2.5 million.
17 Class Counsel will also apply to the Court for an award of costs, of no more than \$160,000. These
18 fees and costs are included in, and shall come from, the Gross Settlement Amount. Class Counsel
19 will be issued an IRS Form 1099, and such other tax forms as the Settlement Administrator deems
20 appropriate, for any fees and costs awarded by the Court pursuant to this Paragraph. To the extent
21 attorneys’ fees and costs are not approved in the amounts set forth above, and the order becomes
22 final, then the non-approved amounts will be included in the Net Settlement Amount for
23 distribution to the Participating Class Members, but subject to Plaintiffs’ and Class Counsel’s prior
24 right to appeal described in paragraph 31, herein.

25 b. At the final approval hearing, Class Counsel will apply to the Court for an
26 award reimbursing the Settlement Administrator for up to \$20,000 for fees and costs incurred in
27 administering the Settlement.

28 c. The Settlement Administrator’s fees and costs are included in, and shall

1 c. At the final approval hearing, Class Counsel will apply to the Court for
2 enhancement awards totaling up to \$100,000 to be distributed among the Named Plaintiffs and
3 declarants and/or deponents as enhancement awards for their services and for assuming the risks
4 associated with this Action. The enhancement awards are included in, and shall come from, the
5 Gross Settlement Amount. Each of the individuals receiving an enhancement award will be issued
6 an IRS Form 1099, and such other tax forms as the Settlement Administrator deems appropriate,
7 for any enhancement award approved by the Court pursuant to this Paragraph. Class Counsel will
8 be responsible for allocating the enhancement award, subject to Court approval. If the
9 enhancement award paid to the Named Plaintiffs is less than \$100,000 and the order becomes final,
10 then the non-approved amounts will be included in the Net Settlement Amount for distribution to
11 the Participating Class Members, subject to Plaintiffs' and Class Counsel's prior right to appeal
12 described in paragraph 30, herein. The enhancement awards described in this paragraph will be
13 paid to recipients in addition to any payments they may be entitled to receive pursuant to Sections
14 29(e) and 29(f) below.

15 d. At the final approval hearing, Class Counsel will apply to the Court for
16 approval of the payment of \$50,000 for claims asserted under PAGA ("PAGA Payment"). Class
17 Counsel will submit notice of this Settlement to the LWDA, as required by Labor Code
18 § 2699(l)(2). The Parties agree that 75% of the PAGA Payment (\$37,500) will be paid to the
19 LWDA, and the remaining 25% (\$12,500) of civil penalties will be allocated to the Aggrieved
20 Employees using the same formula as set forth in Section 29(e), but will be limited to shifts worked
21 during the PAGA Period. Any Class Member who opts out of the Settlement will still be
22 considered an Aggrieved Employee for purposes of this Section 29(e) and, therefore, will
23 (i) receive their portion of the PAGA Payment; and (ii) be bound by the release provisions of
24 Sections 20 and 28 of this Agreement, but only PAGA Claims.

25 e. After deducting the amounts specified in Sections 29(a)-(d), above, each
26 Class Member will be entitled to a pro rata portion of the remaining amount, which will be
27 approximately \$830,000 (the "Net Settlement Amount"), which does not include the additional
28 \$12,500 to be distributed to Aggrieved Employees pursuant to Section 29(d). Individual settlement

1 payments (hereafter, “Settlement Payments”) will be awarded from the Net Settlement Amount
2 based on the respective number of “shifts” worked by each Class Member during the Class Period.
3 “Shifts” is defined as workdays in which a Class Member recorded hours worked for KJI, based
4 upon information compiled by Plaintiffs’ damages expert. Each Participating Class Member’s
5 share of the Net Settlement Amount will be calculated by dividing his or her shifts by the total
6 number of shifts of all Class Members during the Class Period. The Class Notice will include the
7 number of shifts that the Class Member worked during the Class Period and the minimum amount
8 the Class Member is entitled to receive under the terms of the Settlement.

9 Example: Class Member A worked 200 shifts during the Class Period. All
10 Class Members who worked during the Class Period worked a total of 40,000 shifts.
11 Class Member A’s minimum settlement payment would be calculated as follows:

- 12 – 200 shifts worked by Class Member A ÷ 40,000 shifts for all Class
13 Members = 0.5%.
- 14 – Class Member A would be entitled to a minimum settlement payment
15 in the amount of \$4,150.00 (0.5% x \$830,000). Class Member A would
16 also be entitled to a PAGA allocation pursuant to 29(d), if Class Member
17 A worked shifts during the PAGA Period.

18 f. The Parties acknowledge and agree that the formula used to calculate the
19 minimum settlement payments does not mean that all of the elements of damages, restitutionary
20 relief, and penalties alleged in the Action are not being taken into account. The above formula
21 was devised as a fair and practical method to simplify the participation process.

22 g. Settlement Payments shall be distributed only to Participating Class
23 Members. Settlement Payments allocated to Class Members who opt out of the Settlement will be
24 distributed to Participating Class Members on a pro-rata basis based on the formula set forth in
25 Section 29(e).

26 h. The Parties agree that, under no circumstances shall Defendants be
27 obligated to pay any amount under this Agreement to any Class Member other than Participating
28 Class Members. In addition, the Parties agree that under no circumstances shall Defendants be

1 obligated to pay more than the Gross Settlement Amount in full settlement of the Action, except
2 that the Gross Settlement Amount does not include the employer's share of payroll taxes, which
3 Defendants will pay in addition the Gross Settlement Amount.

4 30. Appeal of Denial of Fees and Costs. If Class Counsel appeal any denial of fees or
5 costs, the non-awarded fees/costs that are subject to the appeal will remain in the QSF until such
6 time as the appeal is resolved, and the unchallenged remainder of the settlement (including all fees-
7 costs actually awarded) will be distributed based upon the Court's approval without delay. To the
8 extent the Court awards (and, if an appeal is filed, an appeal affirms) less than the amount of
9 attorneys' fees and costs requested by Class Counsel, the remaining amount will be redistributed
10 among class members who participate on a *pro rata* basis, without delay. Likewise, the Parties
11 expressly agree that any order or proceeding relating to the application by Class Counsel of
12 Plaintiffs' enhancements shall not operate to terminate or cancel this agreement. If Class Counsel
13 appeals any denial of these enhancements, the un-awarded enhancement that is subject to the
14 appeal will remain in the QSF until such time as the appeal is resolved, and the unchallenged
15 remainder of the settlement (including the enhancement actually awarded) will be distributed
16 based upon the Court's approval, without delay. To the extent the Court awards (and, if an appeal
17 is filed, an appeal affirms) less than the amount of the requested enhancement, the remaining
18 amount will be redistributed amongst class members on a *pro rata* basis, without delay. In the
19 event that Class Counsel appeals the denial of fees or costs or enhancements, and the Settlement
20 Administrator incurs additional fees/costs to conduct later distributions, Parent will not be
21 responsible for any additional fees/costs.

22 31. No Credit Toward Benefit Plans. The Settlement Payments made to Participating
23 Class Members under this Agreement shall not be utilized to calculate any additional benefits
24 under any benefit plans to which any Participating Class Member may be eligible including, but
25 not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation
26 plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention
27 that this Settlement Agreement will not affect any rights, contributions, or amounts to which any
28 Participating Class Member may be entitled under any benefit plans.

1 32. Taxation Of Settlement Proceeds. All Settlement Payments paid to Participating
2 Class Members and the Named Plaintiffs, shall be paid in a net amount after applicable state and
3 federal tax withholdings, including payroll taxes, have been deducted.

4 a. The Parties agree that: (i) \$100,000 of the Net Settlement Fund to be
5 distributed will be considered wages, and will be reported as such to each Participating Class
6 Member on a W-2 Form; (ii) 50.00% of the settlement payment distributed to each Participating
7 Class Member will be considered interest, and will be reported as such to each Participating Class
8 Member on an IRS Form 1099; and (iii) the remainder of the settlement payment distributed to
9 each Participating Class Member, after 50% is treated as interest, and a *pro rata* share of \$100,000
10 wages is counted, will be considered statutory penalties, and will be reported as such to each
11 Participating Class Member on an IRS Form 1099.

12 b. Prior to mailing Settlement Payments to Participating Class Members, the
13 Settlement Administrator will calculate, withhold from the Settlement Payment, and remit to
14 applicable governmental agencies sufficient amounts as may be owed by Participating Class
15 Members for required withholdings and taxes, including all payroll taxes. The Settlement
16 Administrator will issue appropriate tax forms to each Participating Class Member consistent with
17 the foregoing breakdown. The Parties understand that the Named Plaintiffs and Participating Class
18 Members who receive a Settlement Payment pursuant to this Agreement shall be solely responsible
19 for any and all tax obligations associated with such receipt, other than the employer's share of
20 payroll taxes, which is exclusively Defendants' responsibility.

21 c. The Parties stipulate that the Settlement Fund (as defined in Section 37,
22 below) will be placed in a qualified settlement fund ("QSF") pursuant to the requirements of
23 Section 468(B)(g) of the Internal Revenue Code of 1986, as amended, and Section 1.468B-1 et
24 seq. of the income tax regulations. Furthermore, the Settlement Administrator is hereby designated
25 as the "Administrator" of the qualified settlement funds for purposes of Section 1.468B-2(k) of
26 the income tax regulations. As such, all taxes imposed on the gross income of the Settlement Fund
27 and any tax-related expenses arising from any income tax return or other reporting document that
28 may be required by the Internal Revenue Service or any state or local taxing body will be paid

1 from the Settlement Fund.

2 d. All Parties represent and acknowledge that nothing in this Agreement
3 constitutes tax advice regarding the tax treatment of payments under federal, state, or local law.

4 33. Notice Procedure. Within 15 calendar days after entry of the Preliminary Approval
5 Order, the Parties will provide to the Settlement Administrator a list of Class Members that
6 identifies for each Class Member his/her name, Social Security Number, last-known address,
7 phone and email address where available, job position, and the shifts allocated to each Class
8 Member (the "Class List"). The Parties will cooperate in preparing the Class List. The Parties
9 will provide the Class List in an Excel file or other format reasonably acceptable to the Settlement
10 Administrator. The Settlement Administrator will keep the list confidential and use it only for the
11 purposes described herein. The Parties agree that, due to the shelter-in-place and other public
12 health orders restricting access to workplaces, they may need to adjust the deadline for production
13 of the Class List. The Parties will cooperate in providing the Class List to the Settlement
14 Administrator in as timely a manner as possible.

15 a. Within 10 calendar days after receipt of the above information from
16 Defendants, the Settlement Administrator will send the Class Notice to each Class Member via
17 first-class mail, and where possible, via text and email. It shall be presumed that each and every
18 Class Member whose Class Notice is not returned to the Settlement Administrator as undeliverable
19 within 15 calendar days after mailing actually received the Class Notice.

20 b. The Settlement Administrator will re-mail any notice packet returned by the
21 United States Postal Service with a forwarding address. It shall be conclusively presumed that
22 those Class Members whose re-mailed Class Notice is not returned to the Settlement Administrator
23 as undeliverable within 15 calendar days after re-mailing, actually received the Class Notice.

24 c. The Settlement Administrator will use the appropriate skip tracing and
25 National Change of Address searches to increase the likelihood of delivery of the Class Notice to
26 Class Members, and to re-mail the notice packets returned by the post office without a forwarding
27 address upon locating new or alternate addresses after a reasonable search.

28 d. Class Counsel will provide to the Court, in connection with seeking final

1 approval of the Settlement, a declaration from the Settlement Administrator confirming that the
2 Class Notice was mailed and, where possible, sent by e-mail and text to all Class Members as
3 required by this Agreement, as well as any additional information Class Counsel deems
4 appropriate to provide to the Court.

5 34. Challenge Procedure. The Class Notice will include a procedure by which a Class
6 Member may challenge the number of shifts allocated to the Class Member by submitting a written
7 challenge sent via U.S. Mail or email to the Settlement Administrator postmarked or (if by email)
8 date-stamped no later than the expiration of the Notice Period. A Class Member challenging the
9 shifts must do so using a Dispute Form, a copy of which is attached as **Exhibit D**, and evidence
10 sufficient to prove that the Parties' calculation of the shifts for the Class Member is incorrect.
11 Upon receipt of notice of any such dispute, the Settlement Administrator will promptly serve Class
12 Counsel and Defendants' counsel with a copy of the notice of dispute and any accompanying
13 papers.

14 a. No such notice of dispute will be effective or considered for any purpose
15 unless it is timely mailed by U.S. mail or sent by e-mail and received by the Settlement
16 Administrator as provided above. Defendants and Class Counsel will have the right to respond to
17 the challenge by any Class Member. All information and documents relating to any such disputes
18 will be provided to the Parties. The Settlement Administrator will resolve the challenge and make
19 a final and binding determination without hearing or right of appeal. The Settlement
20 Administrator's determination will be subject to review by the Court at the time of the Final
21 Approval Hearing if a dispute remains unresolved.

22 b. Within 10 calendar days of the close of the Notice Period, the Settlement
23 Administrator will provide Class Counsel and Defendants' counsel with a report listing the amount
24 of all Settlement Payments to be made to Participating Class Members. After receiving the
25 Settlement Administrator's report, Class Counsel and Defendants' counsel shall jointly review the
26 same to determine if the calculation of payments to Participating Class Members is consistent with
27 this Settlement Agreement.

28 35. Opt-Out Procedure. Unless a Class Member opts out of the Class Settlement, the

1 Class Member will be bound by the terms and conditions of this Agreement, including the release
2 provisions. A Class Member will not be entitled to opt out of the Class Settlement unless the Class
3 Member timely requests to opt out before the expiration of the Notice Period, which a Class
4 Member may do by notifying the Settlement Administrator by mail or email.

5 a. Upon receipt of any opt-out notification within the Notice Period, the
6 Settlement Administrator will notify the Parties within two (2) business days.

7 b. Any Class Member who fails to submit a timely opt-out request will be
8 barred from opting out of the Class Settlement, unless otherwise ordered by the Court. The
9 Settlement Administrator will not review or consider any opt-out request postmarked or date-
10 stamped (if by email) after the expiration of the Notice Period, but will report its receipt of any
11 such requests to Class Counsel and counsel for Defendants. It shall be presumed that, if an opt-
12 out notification is not postmarked or date-stamped (if by email) on or before the end of the Notice
13 Period, the Class Member did not make the request in a timely manner. Under no circumstances
14 shall the Settlement Administrator have the authority to extend the deadline for Class Members to
15 file a request to opt out of the Class Settlement without the Parties' written consent or an Order
16 from the Court.

17 c. If Class Members whose combined allocations exceed 10% of the total Net
18 Settlement Amount timely opt out of the Settlement, Defendants will have the sole and absolute
19 discretion to withdraw from this Agreement within 10 business days after the Settlement
20 Administrator provides a final count of Class Members who opted out and the percentages of the
21 Net Settlement Amount attributable to those Class Members. In the event that Defendants elect to
22 so withdraw, the withdrawal shall have the same effect as a termination of this Agreement for
23 failure to satisfy a condition of settlement, and the Agreement shall become null and void and have
24 no further force or effect.

25 36. Objections To Settlement. Any Participating Class Member who does not opt out
26 may object to the Settlement. Any written objection must be sent via U.S. Mail or email to the
27 Settlement Administrator (who shall promptly provide a copy to Class Counsel and counsel for
28 Defendants; the Parties shall be responsible for notifying the Court at the time of filing a final

1 approval motion) by the close of the Notice Period and include either a written statement objecting
2 to the Settlement or a written notice of intention to appear at the Final Approval Hearing and
3 object, as set forth below. Failure to submit a written objection does not waive any Class
4 Member's right to appear at the Final Hearing to object orally to the Settlement.

5 a. Objections to the Settlement must contain at least the following: (i) the
6 objecting Participating Class Member's full name, current address, telephone number, last four
7 digits of his or her social security number, and signature (which may be electronic); (ii) a clear
8 reference to the Action, including the name and number of the case; (iii) dates of the objector's
9 work with Defendants; (iv) a statement of the specific legal and factual reasons why the objector
10 believes the Settlement is unfair or objects to the Settlement; and (v) a statement whether the
11 objector intends to appear at the final approval hearing, either in person or through counsel and, if
12 through counsel, a statement identifying that counsel by name, bar number, address and telephone
13 number. All objections shall be signed (or e-signed) by the objecting Participating Class Member
14 (or his or her legally authorized representative), even if the objecting Participating Class Member
15 is represented by counsel.

16 b. Class Counsel and/or Defendants' Counsel may, before the Final Approval
17 Hearing, file responses to any written objections submitted to the Court.

18 c. Members of the Participating Class who object to the proposed Settlement
19 or the Settlement Agreement shall remain Participating Class Members, and shall be deemed to
20 have voluntarily waived their right to pursue an independent remedy against Defendants and the
21 Releasees. To the extent any Participating Class Member objects to the proposed Settlement or
22 Settlement Agreement and such objection is overruled in whole or in part, such individuals will be
23 forever bound by the Court's Final Approval Order.

24 37. Funding And Distribution Of Settlement. Defendants will fund the \$2,200,000
25 Gross Settlement Amount plus employer-side payroll taxes (the "Settlement Fund") as follows:

26 a. KJI or Parent will deposit by April 17, 2020, the first installment of the
27 settlement in the amount of \$1.2 million into a QSF established by the Settlement Administrator,
28 provided that the Settlement Administrator has established the QSF. If the Settlement

1 Administrator cannot, or has not, established a QSF, the Parties will establish a comparable
2 mechanism for depositing and holding the first installment within the same time period.

3 b. KJI or Parent will deposit the second installment of \$1 million in the QSF
4 by no later than the earlier of (i) six months after Plaintiffs' counsel's filing of the preliminary
5 approval motion, provided that the court has granted the motion; or (ii) the date Plaintiffs' motion
6 for final approval of the settlement is granted. In addition, Parent will also place an additional
7 amount determined to be the employer's share of payroll taxes to be owed on the wage portion of
8 the Net Settlement Amount; provided, however, that any and all interest earned on the first \$1.2
9 million placed in the QSF will contribute to funding employer-side payroll taxes.

10 38. The delivery by Defendants of the complete Settlement Fund to the Settlement
11 Administrator will constitute full and complete discharge of the entire obligation of Defendants
12 under this Agreement. No Released Party will have any further obligation or liability to the Named
13 Plaintiffs, Participating Class Members, or Class Counsel under this Settlement Agreement,
14 regardless of whether the Named Plaintiffs, Participating Class Members, or Class Counsel receive
15 the payments set forth in this Agreement.

16 a. The distribution of Settlement Payments to Participating Class Members
17 will occur no later than 10 business days after receipt of funding of the Settlement from the
18 Defendants ("Settlement Proceeds Distribution Deadline"). The Settlement Administrator shall
19 be deemed to have timely distributed Settlement Payments if it places in the mail Settlement
20 Payments for all Participating Class Members by the Settlement Proceeds Distribution Deadline.
21 No person will have any claim against the Settlement Administrator, Defendants, Class Counsel,
22 Defendants' counsel, or any other agent designated by the Named Plaintiffs or Class Counsel based
23 upon the distribution of Settlement Payments made substantially in accordance with this
24 Agreement or further orders of the Court.

25 b. The distribution of the PAGA Payment to the LWDA and Aggrieved
26 Employees, attorneys' fees, costs, and the enhancement award shall occur no later than five (5)
27 business days after the Settlement Administrator receives the Gross Settlement Amount.

28 c. If a Participating Class Member's check is returned to the Settlement

1 Administrator, the Settlement Administrator will make reasonable efforts to re-mail it to the
2 Participating Class Member at his or her correct address. Participating Class Members who have
3 not cashed checks will receive a reminder postcard via U.S. Mail and (where available) text and
4 email 30 days after issuance. It is expressly understood and agreed that the checks for the
5 individual Settlement Payments will become void and no longer available if not cashed within 90
6 days after mailing.

7 i) If more than \$10,000 of the initial class payments are uncashed
8 after 90 days, there will be a second, *pro rata* distribution to those class members who cashed
9 their checks; if less than \$10,000 of the initial class payments are uncashed, or any of the second
10 checks are uncashed, any checks that remain uncashed after 90 days will be voided and the amount
11 will be allocated 50/50 to Wage Justice Center and Legal Aid at Work, suitable *cy pres* recipients
12 following California's standards. All uncashed second checks (assuming a second distribution
13 occurs) will go *pro rata* to the two *cy pres* after 90 days.

14 ii) Any order or proceeding relating to second allocation and *cy pres*
15 shall not operate to terminate or cancel this agreement. If Class Counsel appeals any denial of
16 the second allocation or *cy pres*, the un-awarded second allocation or *cy pres* that is subject to the
17 appeal will remain in the QSF until such time as the appeal is resolved, and the unchallenged
18 remainder of the settlement (including the second allocation or *cy pres* actually awarded) will be
19 distributed based upon the Court's approval without delay. To the extent the Court awards (and,
20 if an appeal is filed, an appeal affirms the Court) less than the amount of the second allocation or
21 *cy pres*, the remaining amount will be redistributed amongst class members on a *pro rata* basis
22 without delay. In the event that Class Counsel appeals the denial of a second allocation or *cy*
23 *pres*, and the Settlement Administrator incurs additional fees/costs to conduct later distributions,
24 Parent will not be responsible for any additional fees/costs.

25 d. Within 10 days of the Settlement Proceeds Distribution Deadline, the
26 Settlement Administrator will provide written certification to Class Counsel and to Defendants'
27 Counsel, and shall provide further certification to the Parties' counsel within 10 days after any
28 second allocation and *cy pres* payments are made.

1 39. Binding Effect Of Agreement On Class Members. Subject to final Court approval,
2 all Participating Class Members will be bound by this Agreement, and the Action. In addition,
3 unless a Class Member opts out of the settlement described in this Agreement, he/she shall be
4 bound by the Court's Order enjoining all Class Members from pursuing, or seeking to reopen,
5 Settled Claims against the Released Parties.

6 40. Provisional Approval Of Settlement. Upon execution of this Agreement, the
7 Named Plaintiffs shall promptly file a motion in the Action requesting that the Court preliminarily
8 approve the Settlement.

9 41. Declaration of Financial Condition. Parent will provide a declaration of his
10 financial condition, and any other documentation the Court may request, and will cooperate with
11 counsel for both Parties in seeking settlement approval to support arguments as to financial
12 viability considerations that affected the parties' decision to settle upon the terms outlined herein.

13 42. Non-Interference With Claims Procedure. The Parties and their counsel agree that
14 they will not seek to solicit or otherwise encourage Class Members to submit requests for exclusion
15 or objections to the settlement or to appeal from the Final Order or Final Judgment.

16 43. Final Order and Judgment. Named Plaintiffs will request that the Court enter, after
17 the Final Approval Hearing, a Final Order and Judgment. Named Plaintiffs will also request that
18 the Final Order certify the Participating Class; find that this Agreement is fair, just, equitable,
19 reasonable, adequate and in the best interests of the Class; permanently enjoin all Participating
20 Class Members from pursuing, or seeking to reopen, Settled Claims against the Released Parties;
21 and require the Parties to carry out the provisions of this Agreement.

22 44. No Access to Funds Once Deposited. Defendants agree that once the Settlement
23 Amount, or any portion thereof, is deposited into the QSF, they will not be allowed access to such
24 funds for any purpose, unless (i) preliminary approval is denied, with no opportunity for the parties
25 to correct any deficiencies raised by the court; or (ii) final approval is conclusively denied. The
26 funds shall be returned to KJI or Parent only if the settlement is conclusively denied approval by
27 the Court and such determination is not overturned by an appellate court.

28 45. Plaintiffs' Right to Withdraw. If Defendants do not fund the Settlement Amount

1 as specified above, Plaintiffs may withdraw from the settlement upon giving Parent a 5-day notice
2 to cure, which notice will be in writing and sent to Parent's counsel of record. If Defendants do
3 not fund the Settlement Amount within the 5-day notice period and Plaintiffs withdraw from the
4 settlement, any monies deposited into the QSF, or other comparable account, will be held until
5 conclusion of the action.

6 46. Automatic Voiding Of Agreement If Settlement Not Finalized. Other than as
7 specified in the preceding paragraphs, if for any reason the settlement set forth in this Agreement
8 does not become final, the settlement shall be null and void and the orders, judgment, and dismissal
9 to be entered pursuant to this Agreement shall be vacated, and the Parties will be returned to the
10 status quo prior to entering this Agreement with respect to the Action, as if the Parties had never
11 entered into this Agreement, and the class certified pursuant to this Agreement will be decertified
12 for all purposes. In addition, in such event, the Agreement and all negotiations, court orders and
13 proceedings relating thereto shall be without prejudice to the rights of any and all parties hereto,
14 and evidence relating to the Agreement and all negotiations shall not be admissible or discoverable
15 in the Action or otherwise.

16
17 47. Removal of Deadbeat Bosses Video. Named Plaintiffs and Class Counsel agree to
18 permanently remove the video entitled "Deadbeat Bosses – Artie Parent's Story" (the "Deadbeat
19 Bosses Video") from any and all websites, URLs, or other locations where Class Counsel or
20 Named Plaintiffs have it posted (including but not limited to websites and social media accounts).
21 Class Counsel will also use reasonable efforts to cause Insider Exclusive to permanently remove
22 the Deadbeat Bosses Video from any websites on which it is posted, including the Insider
23 Exclusive websites and YouTube. In addition, Class Counsel agrees to (a) remove any other
24 videos relating to this Action from locations controlled by Class Counsel, and (b) not post any
25 other additional videos relating to this Action.

26 48. Invalidation Of Agreement For Failure To Satisfy Conditions. If the Court makes
27 material changes to the material terms or conditions of this Agreement, the Parties shall have the
28 right to terminate this Agreement, in which case Defendants would not be obligated to make any

1 payments to any Class Member, to Class Counsel, or to the Named Plaintiffs under this Agreement.

2 49. Modification In Writing. This Agreement may be altered, amended, modified or
3 waived, in whole or in part, only in a writing signed by all signatories to this Agreement. This
4 Agreement may not be amended, altered, modified or waived, in whole or in part, orally.

5 50. Ongoing Cooperation. The Named Plaintiffs and Defendants will execute all
6 documents and perform all acts necessary and proper to effectuate the terms of this Agreement.
7 The executing of documents must take place prior to the Final Hearing Date. In the event the
8 Parties are unable to reach agreement on the form or content of any document needed to implement
9 the Settlement, or any supplemental provisions that may become necessary to effectuate the terms
10 of the Settlement, the Parties agree to seek the assistance of the Court.

11 51. Notices. All notices, requests, demands and other communications required or
12 permitted to be given pursuant to this Settlement Agreement shall be in writing, and shall be
13 delivered personally or by first class mail or email to the Settlement Administrator approved by
14 the Court and the undersigned persons at their respective addresses as set forth below:

15 **CLASS COUNSEL**

Bryan Schwartz , Esq.
Natasha Baker, Esq.
BRYAN SCWARTZ LAW
180 Grand Ave, Suite 1380
Oakland, California 94612
Telephone (510) 444-9300
bryan@bryanschwartzlaw.com

20 **COUNSEL FOR DEFENDANT**

Brian C. Sinclair, Esq.
RUTAN & TUCKER, LLP
611 Anton Boulevard, Fourteenth Floor
Costa Mesa, California 92626-1931
Telephone: (714) 641-3430
bsinclair@rutan.com

25 52. Binding on Successors. This Agreement shall be binding and shall inure to the
26 benefit of the Parties and their respective successors, assigns, executors, administrators, heirs and
27 legal representatives.

28 53. Entire Agreement. This Agreement constitutes the full, complete and entire

1 understanding, agreement and arrangement between the Named Plaintiffs and the Class Members
2 on the one hand and Defendants on the other hand with respect to the settlement of the Action and
3 the Settled Claims against the Released Parties. This Agreement supersedes any and all prior oral
4 or written understandings, agreements and arrangements between the Parties with respect to the
5 settlement of the Action and the Settled Claims against the Released Parties. Except those set forth
6 expressly in this Agreement, there are no other agreements, covenants, promises, representations
7 or arrangements between the Parties with respect to the settlement of the Action and the Settled
8 Claims against the Released Parties. The Parties explicitly recognize California Civil Code
9 Section 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written
10 agreement is to be construed according to its terms, and may not be varied or contradicted by
11 extrinsic evidence, and agree that no such extrinsic oral or written representations or terms shall
12 modify, vary, or contradict the terms of this Agreement.

13 54. Execution In Counterparts. This Agreement may be signed in one or more
14 counterparts. All executed copies of this Settlement Agreement, and photocopies thereof
15 (including facsimile and e-mail copies of the signature pages), shall have the same force and effect
16 and shall be as legally binding and enforceable as the original.

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

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

23 57. Reservation Of Jurisdiction. Notwithstanding the dismissal of this action and entry
24 of Final Judgment, the Court shall retain jurisdiction under Section 664.6 of the Code of Civil
25 Procedure for purposes of interpreting and enforcing the terms of this Agreement.

26 58. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
27 and conditions of this Agreement. Accordingly, this Agreement shall not be construed more
28 strictly against one party than another merely by virtue of the fact that it may have been prepared

1 by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
2 between the Parties, all Parties have contributed to the preparation of this Agreement.

3 59. Severability. The Parties to this Agreement agree, covenant, and represent that
4 each and every provision of this Agreement shall be deemed to be contractual, and that they shall
5 not be treated as mere recitals at any time or for any purpose. Therefore, the Parties further agree,
6 covenant, and represent that each and every provision of this Agreement shall be considered
7 severable, except as described above concerning material terms. If a material term is invalidated,
8 then this Agreement shall become voidable and all payments made pursuant to this Agreement
9 shall be returned to Defendants, assuming the conditions are met in Section 44 above. If a court
10 of competent jurisdiction finds any material provision to be invalid or unenforceable for any
11 reason, other provisions or parts thereof shall remain in full force and effect to the extent allowed
12 by law.

13 60. Representation and Warranties. Class Counsel, Named Plaintiffs, and the Class
14 jointly and severally represent and warrant to Defendants that there are no attorneys beyond those
15 named as Class Counsel who have claims for fees arising out of the Action or the Settlement
16 contemplated hereby. To the extent those representations are false or other attorneys do have
17 claims for fees arising out of the Action or this Settlement, Class Counsel and the Class jointly and
18 severally agree to fully indemnify Defendants for any damages it incurs as a result of those claims,
19 including, but not limited to, all attorneys' fees and costs.

20 61. Authorization to Act. With respect to themselves, each of the Parties to this
21 Agreement and their agents or counsel represents, covenants and warrants that (a) they have full
22 power and authority to enter into and consummate all transactions contemplated by this Agreement
23 and have duly authorized the execution, delivery and performance of this Agreement and (b) the
24 person executing this Agreement has the full right, power and authority to enter into this
25 Agreement on behalf of the party for whom he/she has executed this Agreement, and the full right,
26 power and authority to execute any and all necessary instruments in connection herewith, and to
27 fully bind such party to the terms and obligations of this Agreement.

28 62. Representation By Counsel. The Parties acknowledge that they have been

1 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
2 and that this Agreement has been executed with the consent and advice of counsel. Further, the
3 Named Plaintiffs and Class Counsel warrant and represent that there are no liens on the Settlement
4 Agreement, and that after entry by the Court of the Final Order and Final Judgment, the Settlement
5 Administrator may distribute funds to Participating Class Members, Class Counsel, and the Named
6 Plaintiffs as provided by this Agreement.

7 63. Authorization By Named Plaintiffs. The Named Plaintiffs authorize Class Counsel
8 to sign this Agreement and further agree not to request to be excluded from the Class and not to
9 object to any terms of this Agreement. Any such request by Named Plaintiffs for exclusion or
10 objection shall therefore be void and of no force or effect.

11 64. Attorneys' Fees and Costs. No Participating Class Member or Class Counsel or
12 any other attorney acting for any Participating Class Member may recover or seek to recover any
13 amounts for fees, costs, or disbursements from the Released Parties or the Net Settlement Amount
14 except as expressly provided herein.

15 65. No Reliance on Representations. The Parties have made such investigations of the
16 facts and the law pertaining to the matters described herein and this Agreement as they deem
17 necessary, and have not relied, and do not rely, on any statement, promise, or representation of
18 fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or
19 representatives, with regard to any of their rights or asserted rights, or with regard to the
20 advisability of making and executing this Agreement, or with respect to any such matters. No
21 representations, warranties, or inducements have been made to any party concerning this
22 Agreement.

23 66. No Collateral Attack. This Agreement shall not be subject to collateral attack by
24 any Class Member or any recipient of the Class Notice after the Final Order and Dismissal. Such
25 prohibited collateral attacks shall include but not be limited to claims that the Class Member failed
26 for any reason to receive timely notice of the procedure for disputing the calculation of his or her
27 Settlement Payment or for opting out of the Settlement.

28

1 IT IS SO AGREED:

2 Dated: April 17, 2020

By: Heather Turman
Heather Turman
Named Plaintiff

4 Dated: April____, 2020

By: _____
Kimberly Dang
Named Plaintiff

7 Dated: April____, 2020

By: _____
Shannon Payne
Named Plaintiff

10 Dated: April____, 2020

By: _____
Lonnie Finley
Named Plaintiff

13 Dated: April____, 2020

By: _____
Joshua Allen
Named Plaintiff

16 Dated: April____, 2020

By: _____
JW Perkins
Named Plaintiff

19 Dated: April____, 2020

By: _____
Kellianne Ryan
Named Plaintiff

22 Dated: April____, 2020

KOJI'S JAPAN INCORPORATED

By: _____

Title: _____

26 Dated: April____, 2020

By: _____
ARTHUR J. PARENT, JR.

1 IT IS SO AGREED:

2 Dated: April____, 2020

By: _____
Heather Turman
Named Plaintiff
Kimberly Dang

3
4 20
Dated: April____, 2020

By: Kimberly Dang (Apr 20, 2020)
Kimberly Dang
Named Plaintiff

5
6
7 Dated: April____, 2020

By: _____
Shannon Payne
Named Plaintiff

8
9
10 Dated: April____, 2020

By: _____
Lonnie Finley
Named Plaintiff

11
12
13 Dated: April____, 2020

By: _____
Joshua Allen
Named Plaintiff

14
15
16 Dated: April____, 2020

By: _____
JW Perkins
Named Plaintiff

17
18
19 Dated: April____, 2020

By: _____
Kellianne Ryan
Named Plaintiff

20
21
22 Dated: April____, 2020

KOJI'S JAPAN INCORPORATED

By: _____

Title: _____

23
24
25
26 Dated: April____, 2020

By: _____
ARTHUR J. PARENT, JR.

27
28

1 IT IS SO AGREED:

2 Dated: April____, 2020

By: _____
Heather Turman
Named Plaintiff

4 Dated: April____, 2020

By: _____
Kimberly Dang
Named Plaintiff

7 Dated: April 20 , 2020

By: Shannon
Shannon Payne
Named Plaintiff

10 Dated: April____, 2020

By: _____
Lonnie Finley
Named Plaintiff

13 Dated: April____, 2020

By: _____
Joshua Allen
Named Plaintiff

16 Dated: April____, 2020

By: _____
JW Perkins
Named Plaintiff

19 Dated: April____, 2020

By: _____
Kellianne Ryan
Named Plaintiff

22 Dated: April____, 2020

KOJI'S JAPAN INCORPORATED

By: _____

Title: _____

26 Dated: April____, 2020

By: _____
ARTHUR J. PARENT, JR.

1 IT IS SO AGREED:

2 Dated: April____, 2020

By: _____
Heather Turman
Named Plaintiff

4 Dated: April____, 2020

By: _____
Kimberly Dang
Named Plaintiff

7 Dated: April____, 2020

By: _____
Shannon Payne
Named Plaintiff

10 Dated: April 19 , 2020

By: Lonnie Finley Jr.
Lonnie Finley Jr. (April 19, 2020)
Lonnie Finley
Named Plaintiff

13 Dated: April____, 2020

By: _____
Joshua Allen
Named Plaintiff

16 Dated: April____, 2020

By: _____
JW Perkins
Named Plaintiff

19 Dated: April____, 2020

By: _____
Kellianne Ryan
Named Plaintiff

22 Dated: April____, 2020

KOJI'S JAPAN INCORPORATED

By: _____

Title: _____

26 Dated: April____, 2020

By: _____
ARTHUR J. PARENT, JR.

28

1 IT IS SO AGREED:

2 Dated: April____, 2020

By: _____
Heather Turman
Named Plaintiff

4 Dated: April____, 2020

By: _____
Kimberly Dang
Named Plaintiff

7 Dated: April____, 2020

By: _____
Shannon Payne
Named Plaintiff

10 Dated: April____, 2020

By: _____
Lonnie Finley
Named Plaintiff

12 20

13 Dated: April____, 2020

By: Joshua M Allen (Apr 20, 2020)
Joshua Allen
Named Plaintiff

16 Dated: April____, 2020

By: _____
JW Perkins
Named Plaintiff

19 Dated: April____, 2020

By: _____
Kellianne Ryan
Named Plaintiff

22 Dated: April____, 2020

KOJI'S JAPAN INCORPORATED

23
24

By: _____
Title: _____

26 Dated: April____, 2020

By: _____
ARTHUR J. PARENT, JR.

28

1 IT IS SO AGREED:

2 Dated: April____, 2020

By: _____
Heather Turman
Named Plaintiff

4 Dated: April____, 2020

By: _____
Kimberly Dang
Named Plaintiff

7 Dated: April____, 2020

By: _____
Shannon Payne
Named Plaintiff

10 Dated: April____, 2020

By: _____
Lonnie Finley
Named Plaintiff

13 Dated: April____, 2020

By: _____
Joshua Allen
Named Plaintiff

15 Dated: April²⁰____, 2020

By: JW Perkins
[JW Perkins \(Apr 20, 2020\)](#)
JW Perkins
Named Plaintiff

18 Dated: April____, 2020

By: _____
Kellianne Ryan
Named Plaintiff

22 Dated: April____, 2020

KOJI'S JAPAN INCORPORATED

By: _____

Title: _____

26 Dated: April____, 2020

By: _____
ARTHUR J. PARENT, JR.

1 IT IS SO AGREED:

2 Dated: April____, 2020

By: _____
Heather Turman
Named Plaintiff

4 Dated: April____, 2020

By: _____
Kimberly Dang
Named Plaintiff

7 Dated: April____, 2020

By: _____
Shannon Payne
Named Plaintiff

10 Dated: April____, 2020

By: _____
Lonnie Finley
Named Plaintiff

13 Dated: April____, 2020

By: _____
Joshua Allen
Named Plaintiff

16 Dated: April____, 2020

By: _____
JW Perkins
Named Plaintiff

18 Dated: April¹⁷____, 2020

By: *Kellianne Ryan*
Kellianne Ryan (Apr 17, 2020)
Kellianne Ryan
Named Plaintiff

22 Dated: April____, 2020

KOJI'S JAPAN INCORPORATED

By: _____

Title: _____

26 Dated: April____, 2020

By: _____
ARTHUR J. PARENT, JR.

1 IT IS SO AGREED:

2 Dated: April____, 2020

3
4 20

5 Dated: April____, 2020

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16 Dated: April____, 2020

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19 Dated: April____, 2020

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21

22 Dated: April 23, 2020

23

24

25

26 Dated: April 23, 2020

27

28

By: _____
Heather Turman

Named Plaintiff

Kimberly Dang

By: _____

Kimberly Dang

Named Plaintiff

By: _____

Shannon Payne

Named Plaintiff

By: _____

Lonnie Finley

Named Plaintiff

By: _____

Joshua Allen

Named Plaintiff

By: _____

JW Perkins

Named Plaintiff

By: _____

Kellianne Ryan

Named Plaintiff

KOJI'S JAPAN INCORPORATED

By: _____

Title: _____

By: _____

ARTHUR J. PARENT, JR.

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APPROVED AS TO FORM AND CONTENT AND
AGREE TO BE BOUND BY PARAGRAPH 47

Dated: April 17, 2020

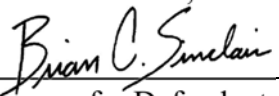
BRYAN SCHWARTZ LAW

By: 
bryan schwartz (Apr 17, 2020)
Attorney for Plaintiffs

APPROVED AS TO FORM AND CONTENT

Dated: April 23, 2020

RUTAN & TUCKER, LLP

By: 

Attorney for Defendant
ARTHUR J. PARENT, JR.