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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THOMAS A. MORIN, RENE
LONGORIA, NICOLAS MEREZKO,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

DEALERS' CHOICE TRUCKAWAY
SYSTEM, INC. dba TRUCKMOVERS,
a Kansas corporation, and DOES 1-20,
inclusive,

Defendants.

Case No. 2:23-cv-00216-WLH-SK

**STIPULATION, SETTLEMENT,
AND RELEASE OF CLASS
ACTION AND PRIVATE
ATTORNEYS GENERAL ACT
CLAIMS**

Judge: Hon. Wesley L. Hsu
Magistrate Judge: Hon. Steve Kim
Courtroom: 9B

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Attorneys for Defendant DEALERS' CHOICE TRUCKAWAY SYSTEM, INC.
dba TRUCKMOVERS

1 This Stipulation, Settlement, and Release of Class Action and Private
2 Attorneys General Act Claims is entered into by and between Plaintiffs Rene
3 Longoria and Nicolas Merezko (“Plaintiffs”), as individuals, on behalf of all other
4 similarly situated and allegedly aggrieved employees, and as a representative of the
5 State of California on the one hand, and Defendant Dealers’ Choice Truckaway
6 System, Inc. d/b/a TruckMovers (“Defendant”) on the other hand. This Settlement
7 was reached pursuant to a mediation conducted by Lynn Frank, Esq. on July 18,
8 2023.

9 **I. DEFINITIONS**

10 A. “Agreement” or “Settlement” or “Settlement Agreement” means this
11 Stipulation, Settlement, and Release of Class Action and Private Attorneys General
12 Act Claims, and all exhibits attached hereto and incorporated herein, including all
13 subsequent amendments agreed to in writing by the Parties and any exhibits to such
14 amendments.

15 B. “Action” means the class and representative action lawsuit, entitled
16 *Morin, et al. v. Dealers’ Choice Truckaway System, Inc. d/b/a TruckMovers*, filed
17 on May 23, 2018 in the Superior Court of the State of California for the county of
18 Los Angeles, and thereafter removed to the United States District Court for the
19 Central District of California, Case No. 2:23-cv-00216-WLH-SK.

20 C. “California Load” means a load for Defendant driven by a Settlement
21 Class Member that had at least one pick-up or delivery in the State of California or
22 during which the Settlement Class Member passed through the State of California
23 during the Class Period. California Loads includes both intrastate loads and
24 interstate loads.

25 D. “Class Counsel” means Sam Kim and Yoonis Han of Verum Law
26 Group, APC, located at 360 North Pacific Coast Highway, Suite 1025, El Segundo,
27 CA 90245.
28

1 E. "Class Counsel Costs Award" means the expenses and costs incurred
2 by Class Counsel in connection with litigation of the Action, which are not to
3 exceed Nineteen Thousand Dollars (\$19,000.00) and are paid from the Gross
4 Settlement Amount.

5 F. "Class Counsel Fees Award" means attorneys' fees for Class
6 Counsel's litigation and resolution of the Action, which are not to exceed 30% of
7 the Gross Settlement Amount, or Three Hundred Thirty Thousand Dollars and Zero
8 Cents (\$330,000.00) and are paid from the Gross Settlement Amount.

9 G. "Class Period" means the period from May 23, 2014 through the
10 Preliminary Approval Date.

11 H. "Class Representatives" means Plaintiffs Rene Longoria and Nicolas
12 Merezko in their capacity as representatives of the Settlement Class Members.

13 I. "Compensable PAGA Pay Period" means any pay period during
14 which a PAGA Group Member was paid for a Compensable Workweek during the
15 PAGA Period.

16 J. "Compensable Workweek" means any distinct workweek in which it
17 is estimated that a Settlement Class Member worked in the State of California, as
18 determined by prorating the mileage attributed to California for each California
19 Load to the total mileage attributed to each California Load in the United States
20 and Canada.

21 K. "Court" means the United States District Court for the Central District
22 of California.

23 L. "Defendant" means Dealers' Choice Truckaway System, Inc. d/b/a
24 TruckMovers.

25 M. "Driver List" means a complete list of all Settlement Class Members
26 and PAGA Group Members that Defendant shall, in good faith, compile from its
27 records and provide to the Settlement Administrator but not Class Counsel. It shall
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1 be formatted as a Microsoft Excel spreadsheet and shall include the following
2 information for each Settlement Class Member and PAGA Group Member: (1)
3 driver identification number used by Defendant; (2) full name; (3) last known
4 address; (4) last known home telephone number; (5) Social Security Number or
5 Employer Identification Number (EIN); (6) the number of Compensable
6 Workweeks for each Settlement Class Member; (7) the number of Compensable
7 PAGA Pay Periods for each PAGA Group Member; (8) information regarding
8 whether the Settlement Class Member drove more than fifty percent (50%) of his
9 or her miles in California as compared to all of the miles driven in the United States
10 or Canada during the Class Period; and (9) information regarding whether the
11 PAGA Group Member drove more than fifty percent (50%) of his or her miles in
12 California as compared to all of the miles driven in the United States or Canada
13 during the PAGA Period.
14

15 N. “Effective Date” means the date by which both of the following have
16 occurred: (a) the Court enters a Judgment on its order granting final approval of the
17 Settlement Agreement; and (b) the Judgment is final. If no Settlement Class
18 Member objects to the Settlement, the Judgment is final as of the day the Court
19 enters Judgment. If one or more Settlement Class Members object to the
20 Settlement, the Judgment is final as of the latest of the following occurrences: (a)
21 if no timely appeal is filed, the day after the deadline for filing a notice of appeal
22 from the Judgment; or (b) if an appeal from the Judgment is timely filed, the day
23 after the appeal is dismissed or withdrawn, or the Judgment is affirmed.

24 O. “Gross Settlement Amount” or “GSA” means a non-reversionary
25 common fund that shall have a total value of One Million One Hundred Thousand
26 Dollars and Zero Cents (\$1,100,000.00) and includes without limitation any and all
27 payments Defendant may be responsible for under the Settlement, including the
28 Individual Settlement Payments, Service Awards, LWDA PAGA Payment, Class

1 Counsel Costs Award, Class Counsel Fees Award, and Settlement Administration
2 Costs.

3 P. “Individual Labor Code Payment” means the amount payable from the
4 Net Settlement Amount to each Settlement Class Member who has not submitted
5 a Request for Exclusion on a pro rata basis as determined according to the
6 provisions of Article III, Section N(1).

7 Q. “Individual PAGA Payment” means the amount of Twelve Thousand
8 Five Hundred Dollars and Zero Cents (\$12,500.00) remaining from the PAGA
9 Payment after the payment of the LWDA PAGA Payment payable to each PAGA
10 Group Member on a pro rata basis as determined according to the provisions of
11 Article III, Section N(4).

12 R. “Individual Settlement Payment” means the total of the Settlement
13 Class Member’s Individual Labor Code Payment and, if applicable, the PAGA
14 Group Member’s Individual PAGA Payment.

15 S. “LWDA” means the California Labor and Workforce Development
16 Agency.

17 T. “LWDA PAGA Payment” means Thirty-Seven Thousand Five
18 Hundred Dollars and Zero Cents (\$37,500.00), which is seventy-five percent (75%)
19 of the PAGA Payment, that shall be paid by the Settlement Administrator directly
20 to the LWDA.
21

22 U. “Net Settlement Amount” or “NSA” means the Gross Settlement
23 Amount, less the Service Awards, LWDA PAGA Payment, Class Counsel Costs
24 Award, Class Counsel Fees Award, and Settlement Administration Costs.

25 V. “Notice Packet” means the Notice of Class Action Settlement in a
26 form substantially similar to the form attached hereto as Exhibit 1.

27 W. “PAGA” means California’s Private Attorneys General Act,
28 California Labor Code § 2698 *et seq.*

1 X. "PAGA Group Members" means all truck drivers classified as
2 independent contractors who signed an independent contractor service agreement
3 and who performed services for Defendant in the State of California during the
4 PAGA Period.

5 Y. "PAGA Notice" means the PAGA notice sent by Plaintiff Rene
6 Longoria to the LWDA dated December 1, 2022.

7 Z. "PAGA Payment" means the amount of Fifty Thousand Dollars and
8 Zero Cents (\$50,000.00) allocated to penalties under the PAGA.

9 AA. "PAGA Period" means the period from December 1, 2021 through the
10 Preliminary Approval Date.

11 BB. "Parties" means Plaintiffs and Defendant, collectively, and "Party"
12 shall mean either Plaintiff or Defendant, individually.

13 CC. "Plaintiffs" means Plaintiffs Rene Longoria and Nicolas Merezko.

14 DD. "Preliminary Approval Date" means the date on which the Court
15 enters an order granting preliminary approval of the Settlement.

16 EE. "Released Parties" means (1) Defendant, (2) its past, present, and/or
17 future parent, subsidiary, affiliated or related entities (including any companies,
18 corporations, partnerships, alter egos, joint venturers, and actual or alleged joint
19 employers), including each related companies/corporations and/or partnerships
20 (defined as a company/corporation and/or partnership that is, directly or indirectly,
21 under common control with that Defendant or any of its parents and/or affiliates),
22 and (3) each of the previously listed entities' respective past, present and future
23 agents, contractors, employees, servants, officers, directors, principals, partners,
24 members, trustees, fiduciaries, representatives, shareholders, stockholders,
25 attorneys, equity sponsors, divisions, assigns, predecessors, successors, insurers,
26 and consultants.
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1 FF. “Response Deadline” means the date forty-five (45) days after the
2 Settlement Administrator mails Notice Packets to Settlement Class Members and
3 the last date on which Settlement Class Members may submit Requests for
4 Exclusion or objections to the Settlement.

5 GG. “Service Award” means the Court approved payment of no more than
6 Ten Thousand Dollars and Zero Cents (\$10,000.00) to each Class Representative,
7 totaling Twenty Thousand Dollars and Zero Cents (\$20,000.00), in addition to their
8 Individual Settlement Payments, in recognition of their efforts and risks in assisting
9 with the prosecution of the Action and in exchange for their execution of a general
10 release of known and unknown claims and waiver pursuant to California Civil Code
11 § 1542.

12 HH. “Settlement Administration Costs” means the costs payable from the
13 Gross Settlement Amount to the Settlement Administrator not to exceed Thirty-
14 Five Thousand Dollars and Zero Cents (\$35,000.00) for administering this
15 Settlement, including, but not limited to, the Settlement Administrator’s
16 responsibilities outlined in this Settlement Agreement.

17 II. “Settlement Administrator” means, subject to appointment by the
18 Court, Phoenix Settlement Administrators, who shall be responsible for the
19 administration of the Settlement, distribution of any amounts owed under this
20 Settlement, and matters necessarily related thereto pursuant to the terms of this
21 Agreement.

22 JJ. “Settlement Class Members” or “Settlement Class” means all truck
23 drivers classified as independent contractors who signed an independent contractor
24 service agreement and who performed services for Defendant in the State of
25 California during the Class Period. Based on Defendant’s data for work completed
26 through January 10, 2023, which the Parties relied upon for purposes of mediation
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on July 18, 2023, Defendant estimated that there were approximately 3,159 individuals that would be in the Settlement Class.

II. RECITALS

A. On May 23, 2018, Plaintiff Thomas Morin (“Plaintiff Morin”) filed a proposed class action in the Los Angeles Superior Court, alleging the following claims: 1) willful misclassification of employees; 2) reimbursement of business expenses; 3) failure to make payment in negotiable instrument; 4) unlawful deductions from wages; 5) failure to provide-off duty meal periods; 6) failure to provide off-duty rest periods; 7) failure to pay minimum wages; 8) failure to furnish accurate wage statements; 9) waiting time penalties; and 10) violation of the Unfair Competition law.

On August 23, 2018, Plaintiff Morin filed his First Amended Complaint, adding a claim under the PAGA (“Morin PAGA Claim”).

On November 15, 2019, Plaintiff Morin filed his Second Amended Complaint that dismissed the claims for: a) willful misclassification under Labor Code § 226.8; b) failure to make payment by negotiable instrument under Labor Code § 212; and c) unlawful deductions from wages under Labor Code § 221.

On December 12, 2022, Plaintiff Morin filed his Third Amended Complaint which included the following amendments: 1) dismissal of the PAGA claim filed by Plaintiff Morin who passed away on January 20, 2022; 2) addition of Plaintiffs Rene Longoria (“Plaintiff Longoria”) and Nicholas Merezko (“Plaintiff Merezko”) as additional substitute class representatives.

On December 5, 2022, Plaintiff Longoria submitted his PAGA Notice to the LWDA and Defendant.

On January 12, 2023, Defendant removed the Action to federal court pursuant to 28 U.S.C. § 1441 and the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2).

1 On April 3, 2023, Plaintiffs filed the Fourth Amended Complaint (“4AC”),
2 which dismissed the meal and rest period claims and added a PAGA claim on
3 behalf of Plaintiff Longoria. The 4AC is the operative complaint.

4 On July 18, 2023, the Parties participated in a mediation with Lynn Frank,
5 Esq., a well-regarded mediator with experience mediating complex labor and
6 employment matters.

7 Defendant has denied and continues to deny any liability or wrongdoing of
8 any kind associated with the claims alleged in the Action, disputes the wages,
9 damages, and penalties claimed by Plaintiffs, and further contends that, for any
10 purpose other than settlement, Plaintiffs’ claims are not appropriate for class or
11 representative action treatment. Defendant contends, among other things, that, at
12 all times, it has complied with the California Labor Code, the Industrial Wage
13 Commission (“IWC”) Orders, and the California Business and Professions Code.

14 The Plaintiffs and Class Representatives are represented by Class Counsel.
15 Class Counsel investigated the facts relevant to the Action, including interviewing
16 Settlement Class Members, propounding written discovery to and obtaining formal
17 written responses from Defendant, and reviewing documents and information
18 provided by Defendant formally and informally during discovery. Based on their
19 own independent investigation and evaluation, Class Counsel is of the opinion that
20 the Settlement with Defendant is fair, reasonable, and adequate, and is in the best
21 interests of the Settlement Class in light of all known facts and circumstances,
22 including the risks of significant delay, defenses asserted by Defendant, and
23 uncertainties regarding a class and representative action trial on the merits.

24 Although Defendant denies any liability, Defendant has concluded that,
25 because of the substantial expense of defending against the Action, the length of
26 time necessary to resolve the issues presented herein, the inconvenience involved
27 in such litigation, and the concomitant disruption to its business operations, it is in
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1 its best interests to accept the terms of this Agreement to avoid the burden, expense,
2 and uncertainty of continuing litigation and for the purpose of putting to rest the
3 controversies engendered by the Action. Accordingly, the Parties and their counsel
4 desire to fully, finally, and forever settle, compromise, and discharge all disputes
5 and claims arising from or relating to the Action according to the terms set forth
6 herein.

7 **III. TERMS OF SETTLEMENT AGREEMENT**

8 A. Settlement Consideration. Defendant shall pay the Gross Settlement
9 Amount of One Million One Hundred Thousand Dollars and Zero Cents
10 (\$1,100,000.00) to settle the Action. The Gross Settlement Amount shall be used
11 to pay the Individual Settlement Payments, Service Awards, LWDA PAGA
12 Payment, Class Counsel Costs Award, Class Counsel Fees Award, and Settlement
13 Administration Costs. In no event shall Defendant be required to pay more than the
14 Gross Settlement Amount, except as provided in Article III, Section B below. There
15 shall be no reversion of the Gross Settlement Fund to Defendant.
16

17 B. Excessive Workweeks in Class Period. If the total number of
18 Compensable Workweeks worked by Settlement Class Members during the Class
19 Period exceeds 11,965, Defendant shall have the option to (1) pay an adjusted pro-
20 rata settlement amount to reflect the increased number of Compensable
21 Workweeks beyond 11,965, i.e., the GSA shall increase by 1% for every 1%
22 increase in the number of Compensable Workweeks over and above 11,965 or (2)
23 cap the workweeks at 11,965, in which case the scope of the release in Article III,
24 Section C shall not extend beyond the date that the number of workweeks exceeds
25 11,965 workweeks.

26 C. Released Class Claims. As of the Effective Date, in exchange for the
27 consideration set forth in this Agreement, the claims settled, fully released and
28 forever discharged by the Settlement Class Members, including Plaintiffs,

1 constitute any and all claims, causes of action, or legal theories that are asserted in,
2 arising from, or reasonably related to the factual allegations made in the Action.
3 The released class claims include all claims, causes of action, or legal theories that
4 were or could have been asserted based on the factual allegations alleged in the
5 Action up through and specifically including the entire Class Period, whether or
6 not specifically delineated as a claim or cause of action in the Action, including but
7 not limited to those alleged in the operative complaint in the Action, including
8 claims that arise from or are reasonably related to the claims and facts alleged in
9 the Action, and any claims which could have reasonably been asserted in the Action
10 arising from the alleged facts and/or primary rights alleged to have been invaded,
11 any alleged misclassification of Settlement Class Members as independent
12 contractors rather than employees, and any claims that are premised upon or that
13 allege failure to reimburse business expenses, failure to pay minimum wages,
14 failure to furnish accurate wage statements, waiting time penalties, and claims
15 arising under or relating to the alleged violations of California Labor Code sections
16 201, 202, 203, 212, 226, 1021.5, 1174, 1182.11, 1182.12, 1194, 1194.2, 1197, and
17 2802, applicable California IWC Wage Orders, including but not limited to IWC
18 Wage Order No. 9-2001; and California Business & Professions Code § 17200 *et*
19 *seq.* against the Released Parties (“Released Class Claims”). The release extends
20 to all remedies that could be claimed for any Released Class Claims, including but
21 not limited to statutory, constitutional, contractual, and common law claims for
22 interest, attorneys’ fees and costs, injunctive relief, punitive damages, liquidated
23 damages, restitution, disgorgement, and civil and/or statutory penalties. Upon
24 approval of the Agreement, Plaintiffs and the Settlement Class Members shall be
25 forever barred from pursuing against the Released Parties any and all claims, causes
26 of action, or legal theories that are asserted in, arising from, or reasonably related
27 to the factual allegations made in the Action during the Class Period.
28

1 D. Released PAGA Claims. As of the Effective Date, in exchange for the
2 PAGA Payment set forth in this Agreement, the claims settled, fully released and
3 forever discharged by Plaintiff Longoria as a representative of the State of
4 California and on behalf of the LWDA, constitute any and all claims, causes of
5 action, or legal theories that are asserted in, arising from, or reasonably related to
6 the factual allegations made in the Action and PAGA Notice. The released PAGA
7 claims include all claims, causes of action, or legal theories that were or could have
8 been asserted based on the factual allegations alleged in the Action and PAGA
9 Notice alleged up through and specifically including the entire PAGA Period,
10 whether or not specifically delineated as a claim or cause of action in the Action,
11 including but not limited to those alleged in Plaintiff Longoria's PAGA Notice
12 provided to the LWDA, the operative complaint in the Action, including claims
13 that arise from or are reasonably related to the claims and facts alleged in the
14 Action, and any claims which could have reasonably been asserted in the Action
15 arising from the alleged facts and/or primary rights alleged to have been invaded,
16 any alleged misclassification of Settlement Class Members as independent
17 contractors rather than employees, and any claims that are premised upon or that
18 allege failure to reimburse business expenses, failure to pay minimum wages,
19 failure to furnish accurate wage statements, waiting time penalties, and claims
20 arising under or relating to the alleged violations of California Labor Code sections
21 201, 202, 203, 212, 221, 226, 226.7, 226.8, 256, 512, 558, 1021.5, 1174, 1182.11,
22 1182.12, 1194, 1194.2, 1197, 1197.1, and 2802, applicable California IWC Wage
23 Orders, including but not limited to IWC Wage Order No. 9-2001; and California
24 Business & Professions Code § 17200 *et seq.*, against the Released Parties
25 ("Released PAGA Claims"). The release extends to all remedies that could be
26 claimed for any Released PAGA Claims, including but not limited to statutory,
27 constitutional, contractual, and common law claims for interest, attorneys' fees and
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costs, injunctive relief, punitive damages, liquidated damages, restitution, disgorgement, and civil and/or statutory penalties. PAGA Group Members who opt out of participating in the Settlement as Settlement Class Members will still receive their respective portions of the PAGA Payment based on their Compensable PAGA Pay Periods and will be bound to the Judgment entered by the Court as to the Released PAGA Claims. Upon approval of the Agreement, Plaintiff Longoria and the PAGA Group Members shall be forever barred from pursuing against the Released Parties any and all claims, causes of action, or legal theories that are asserted in, arising from, or reasonably related to the factual allegations made in the Action and PAGA Notice during the PAGA Period.

E. General Release by Plaintiffs. As of the Effective Date and as consideration for Defendant's payment of the Gross Settlement Amount, Service Awards, and other good and valuable consideration described in this Agreement, in addition to releasing the Released Class Claims and Released PAGA Claims, Plaintiffs, for themselves and their heirs, successors and assigns, do hereby fully and finally release the Released Parties, from any and all claims, known and unknown, under federal, state, and/or local law, statute, ordinance, regulation, common law, public policy, or other source of law, including but not limited to claims arising from or related to Plaintiffs' contracts with or work for Defendant and/or the termination of Plaintiffs' contracts with or work for Defendant, including but not limited to all claims asserted in, arising from, or related in any way to the Action, including without limitation any and all claims that could have been asserted as part of the Action based on the facts alleged; any and all claims for violation of the National Labor Relations Act (NLRA) (to the extent permitted by law), Title VII of the Civil Rights Act (Title VII), the Americans With Disabilities Act of 1990 (ADA), the Age Discrimination in Employment Act (ADEA), the Older Worker Benefit Protection Act (OWBPA), the Employee

1 Retirement Income Security Act (excluding vested benefits) (ERISA); the
2 Rehabilitation Act, the Occupational Safety and Health Act (OSHA) (federal and
3 California), the Consolidated Omnibus Budget Reconciliation Act of 1985
4 (COBRA), the Families First Coronavirus Response Act (FFCRA), the Fair Labor
5 Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the California
6 Family Rights Act (CFRA), the Worker Adjustment and Retraining Notification
7 Act (federal and California), the California Fair Employment and Housing Act
8 (FEHA), the Unfair Business Practices Act/Unfair Competition Law (UCL); the
9 California Labor Code, the California Government Code, the California Civil
10 Code, the applicable California Wage Order(s), and the California Private
11 Attorneys General Act (to the extent permitted by law) (all as amended); any and
12 all claims for discrimination or harassment on the basis of any protected status
13 recognized by applicable federal, state or local law, rule, ordinance or regulation;
14 any and all whistleblower or retaliation claims on the basis of any protected activity
15 or other protected basis; any and all claims for breach of any express or implied
16 promise, contract or agreement (express or implied), or breach of the implied
17 covenant of good faith and fair dealing; any tort or common law claims, including
18 wrongful discharge, intentional or negligent infliction of emotional distress,
19 negligence, fraud, misrepresentation, defamation, interference with prospective
20 economic advantage, or other tort or common law actions; any and all claims for
21 misclassification, wage and hour violations, or other claims related to hours,
22 conditions, or compensation related to work; and any and all claims for any other
23 violation of local, state, or federal law, constitution, statute, regulation, ordinance,
24 order, guidance, resolution, public policy, contract, or tort or common law claim,
25 whether for legal or equitable relief, having any bearing whatsoever on the terms
26 and conditions of employment, or association or working relationship, with any of
27 the Released Parties, including but not limited to any allegations for penalties,
28

1 interest, costs and fees, including attorneys' fees ("Plaintiffs' Released Claims").
2 Plaintiffs' Released Claims include all claims, whether known or unknown. Even
3 if Plaintiffs discover facts in addition to or different from those that Plaintiffs now
4 know or believe to be true with respect to the subject matter of Plaintiffs' Released
5 Claims, those claims shall remain released and forever barred. Thus, Plaintiffs
6 expressly waive and relinquish the provisions, rights, and benefits of section 1542
7 of the California Civil Code, which reads:
8

9 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
10 **THAT THE CREDITOR OR RELEASING PARTY DOES NOT**
11 **KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT**
12 **THE TIME OF EXECUTING THE RELEASE AND THAT, IF**
13 **KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY**
14 **AFFECTED HIS OR HER SETTLEMENT WITH THE**
15 **DEBTOR OR RELEASED PARTY.**

16 Notwithstanding the foregoing, Plaintiffs do not waive or release any claim
17 which cannot be waived or released by private agreement. Further, nothing in this
18 Agreement shall prevent Plaintiffs from filing a charge or complaint with, or from
19 participating in an investigation or proceeding conducted by, the SEC, OSHA,
20 EEOC, DFEH, NLRB or any other federal, state, or local agency charged with the
21 enforcement of any employment or other applicable laws. Plaintiffs, however,
22 understand that by signing this Agreement, they waive the right to recover any
23 damages or to receive other relief in any claim or suit brought by any federal, state,
24 or local agency on their behalf to the fullest extent permitted by law, but expressly
25 excluding any monetary award or other relief that may not lawfully be waived.

26 F. Conditions Precedent: This Settlement shall become final and
27 effective only upon the occurrence of all of the following events:

- 28 1. The Effective Date has passed;

1 2. Defendant funds the Gross Settlement Amount; and

2 3. Defendant does not invoke its right to revoke the Settlement as
3 provided herein.

4 G. Certification of the Settlement Class. The Parties stipulate to
5 conditional class certification of the Settlement Class for the Class Period for
6 purposes of settlement only. In the event that this Settlement is not approved by the
7 Court, fails to become effective, or is reversed, withdrawn, or modified by the
8 Court, or in any way prevents or prohibits Defendant from obtaining a complete
9 resolution of the claims as described herein, the conditional class certification shall
10 be void *ab initio* and of no force or effect, and shall not be admissible in any
11 judicial, administrative, or arbitral proceeding for any purpose whatsoever or with
12 respect to any issue, substantive or procedural.

13 H. Nullification of Settlement Agreement. In the event that (i) this
14 Settlement Agreement is not preliminarily or finally approved by the Court, (ii) the
15 Court does not enter a final judgment dismissing the Action in its entirety, or (iii)
16 the Settlement is construed in a manner in which Defendant is required to pay more
17 than the Gross Settlement Amount, then Defendant shall have the right to withdraw
18 from the Settlement by written notice to Class Counsel and:
19

20 1. This Settlement Agreement shall be null and void and any order
21 or judgment entered by the Court in furtherance of this Settlement shall be treated
22 as void *ab initio*, and the Agreement shall not be admissible in any judicial,
23 administrative, or arbitral proceeding for any purpose whatsoever or with respect
24 to any issue, substantive or procedural;

25 2. The conditional class certification described in Article III,
26 Section G shall be void *ab initio* and of no force or effect, and shall not be
27 admissible in any judicial, administrative, or arbitral proceeding for any purpose
28 whatsoever or with respect to any issue, substantive or procedural;

1 3. None of the Parties to this Settlement shall be deemed to have
2 waived any claims, objections, defenses or arguments in the Action, including, but
3 not limited to, with respect to the issue of class certification;

4 4. The fact that the Parties were willing to stipulate to class
5 certification as part of the Settlement shall have no bearing on, and shall not be
6 admissible in connection with, the issues of whether a class could or should be
7 certified in the Action. Nor shall the fact that the Parties were willing to stipulate
8 that Plaintiffs' counsel be appointed as Class Counsel and that Plaintiffs be
9 appointed as Class Representatives as part of the Settlement have any bearing on,
10 or be admissible in connection with, the issues of whether Plaintiffs' counsel should
11 be appointed as Class Counsel and whether Plaintiffs should be appointed as Class
12 Representatives in the Action; and

13 5. Any funds to be awarded under this Settlement shall be
14 immediately returned to Defendant, and the Parties shall proceed in all respects as
15 if this Settlement Agreement had not been executed, except that any fees already
16 incurred by the Settlement Administrator shall be borne equally by the Parties.
17

18 I. Tax Liability. The Parties make no representations as to the tax
19 treatment or legal effect of the payments called for hereunder, and the Parties,
20 Settlement Class Members, and PAGA Group Members are not relying on any
21 statements, representations, or calculations by the Parties in this regard. Plaintiffs,
22 Settlement Class Members, and PAGA Group Members understand and agree that
23 Plaintiffs, Settlement Class Members, and PAGA Group Members shall be solely
24 responsible for the payment of any taxes and penalties assessed on the payments
25 described herein and shall hold the Parties and their respective counsel free and
26 harmless from and against any and all claims, liabilities, costs, and expenses,
27 including attorneys' fees, resulting in any way from tax treatment of the payments
28 called for under this Agreement.

1 J. Circular 230 Disclaimer. Each Party to this Agreement acknowledges
2 and agrees that: (1) no provision of this Agreement, and no written communication
3 or disclosure between or among the Parties or their attorneys and other advisers, is
4 or was intended to be, nor shall any such communication or disclosure constitute
5 or be construed or be relied upon as, tax advice within the meaning of United States
6 Treasury Department circular 230 (31 CFR part 10, as amended); and (2) each Party
7 (a) has relied exclusively upon his, her, or its own, independent legal and tax
8 counsel for advice (including tax advice) in connection with this Agreement, (b)
9 has not entered into this Agreement based upon the recommendation of any other
10 Party or any attorney or advisor to any other Party, and (c) is not entitled to rely
11 upon any communication or disclosure by any attorney or adviser to any other Party
12 to avoid any tax penalty that may be imposed on the Party.
13

14 K. Preliminary Approval Motion. On or before October 13, 2023,
15 Plaintiffs shall file with the Court a Motion for Preliminary Approval of Settlement
16 (“Motion for Preliminary Approval”) and supporting papers, which shall include
17 this Agreement. Class Counsel shall share a draft of the Motion for Preliminary
18 Approval, and all supporting papers, with counsel for Defendant no less than three
19 (3) days before it is filed, and Defendant shall have the right to comment upon and
20 object to any language set forth in the Motion for Preliminary Approval and any
21 supporting papers. To the extent the Court finds that this Agreement does not meet
22 the standard for preliminary approval, the Parties shall meet, confer, and negotiate
23 in good faith for a period of thirty (30) days following any order denying
24 preliminary approval to modify the Agreement directly, or with the assistance of a
25 mediator, to address any concerns identified by the Court. If the Parties are unable
26 to secure preliminary approval of this Agreement, as modified, after meeting and
27 conferring in good faith as described in the previous sentence, then this Settlement
28 shall be null and void in accordance with Article III, Section H of this Agreement.

1 L. Notice Obligations Under 28 U.S.C. Section 1715. Within ten (10)
2 days after the filing of the Motion for Preliminary Approval, Defendant shall
3 provide notice of the Settlement, consistent with the requirements of 28 U.S.C.
4 Section 1715, to the Attorney General of the United States and the Attorneys
5 General of any state in which any Class Member resides according to Defendant's
6 records. If any of the notified federal or state officials takes any action adversely
7 affecting the validity or enforceability of the Settlement, or seeking to impose
8 additional liability on Defendant for the matters resolved by any claims released by
9 this Settlement, Defendant shall have the right, at its option, to suspend the
10 implementation of the Settlement pending the outcome of the action initiated by
11 the notified federal or state official or may elect to void the Settlement by written
12 notice to Class Counsel.

13
14 M. Settlement Administrator. The Settlement Administrator shall be
15 responsible for: (a) calculating Individual Settlement Payments to be paid to each
16 Settlement Class Member and Individual PAGA Payments to be paid to each
17 PAGA Group Member; (b) processing and mailing payments to the Class
18 Representatives, Class Counsel, LWDA, Settlement Class Members, and PAGA
19 Group Members; (c) preparing, printing, and mailing the Notice Packets to the
20 Settlement Class Members and PAGA Group Members, as directed by the Court;
21 (d) receiving and reporting any objections and Requests for Exclusion; (e)
22 providing declaration(s), as necessary, in support of preliminary and/or final
23 approval of this Settlement; (f) other tasks that the Parties mutually agree or the
24 Court orders the Settlement Administrator to perform. The Settlement
25 Administrator shall keep the Parties timely apprised of the performance of all
26 Settlement Administrator responsibilities.

27 N. Settlement Administration.

1 1. Driver List. No later than thirty (30) days after the Preliminary
2 Approval Date, Defendant shall provide the Settlement Administrator with the
3 Driver List for purposes of preparing, printing, and mailing Notice Packets to
4 Settlement Class Members and PAGA Group Members. The Driver List shall be
5 used solely for the administration of this Settlement and for no other purpose and
6 shall not be shared with any persons or entities not employed by the Settlement
7 Administrator and working on the administration of this Settlement. Because
8 sensitive personal information is included in the Driver List, the Settlement
9 Administrator shall maintain the Driver List securely and in confidence. Access to
10 the Driver List shall be limited to employees of the Settlement Administrator with
11 a need to use the Driver List for administration of the Settlement. In the event that
12 the Settlement Agreement is not finally approved by the Court, is in any way altered
13 or disapproved on appeal, or is otherwise nullified by the Court or the Parties, the
14 Settlement Administrator shall not thereafter use the Driver List and shall destroy
15 any and all copies or versions of it in any form (whether electronic or otherwise).
16

17 2. Notice Packets.

18 a) The Notice Packet shall contain the Notice of Class
19 Action Settlement in a form substantially similar to the form attached hereto as
20 Exhibit 1. The Notice of Class Action Settlement shall set forth the material terms
21 of the Settlement, including the release to be given by all members of the
22 Settlement Class and PAGA Group Members who do not request to be excluded
23 from the Settlement. The Notice Packet also shall be individualized by including
24 the Compensable Workweeks and the estimated amount of the Individual
25 Settlement Payment for the Settlement Class Member and the Compensable PAGA
26 Pay Periods and the estimated portion of the PAGA Payment payable to the PAGA
27 Group Member (if applicable).
28

1 b) The Notice Packet’s mailing envelope shall include the
2 following language: “IMPORTANT LEGAL DOCUMENT- YOU ARE
3 ENTITLED TO MONEY FROM A CLASS ACTION SETTLEMENT; YOUR
4 LEGAL RIGHTS ARE EXPLAINED IN THE ENCLOSED NOTICE.”

5 3. Notice By First Class U.S. Mail. Upon receipt of the Driver
6 List, the Settlement Administrator shall perform a search based on the National
7 Change of Address Database and/or similar database(s) to update and correct any
8 known or identifiable address changes concerning Settlement Class Members and
9 PAGA Group Members. No later than fourteen (14) days after receiving the Driver
10 List from Defendant as provided in Article III, Section N(1), the Settlement
11 Administrator shall mail copies of the Notice Packet to all Settlement Class
12 Members and PAGA Group Members via regular First Class U.S. Mail. The
13 Settlement Administrator shall exercise its best judgment to determine the current
14 mailing address for each Settlement Class Member and PAGA Group Member.
15 The address identified by the Settlement Administrator as the current mailing
16 address for each Settlement Class Member and PAGA Group Member shall be
17 presumed to be the best mailing address available under the circumstances. In the
18 event more than one address is identified, the Settlement Administrator shall mail
19 the Notice Packet to all potentially valid addresses.
20

21 4. Undeliverable Notices. Any Notice Packets returned to the
22 Settlement Administrator as non-deliverable on or before the Response Deadline
23 shall be re-mailed to the forwarding address affixed thereto. If no forwarding
24 address is provided, the Settlement Administrator shall promptly attempt to
25 determine a correct address by lawful use of skip-tracing, or other search methods,
26 using the name, address, and/or Social Security Number of the relevant Settlement
27 Class Member and PAGA Group Member, and shall thereafter re-mail the Notice
28 Packet if another mailing address is identified by the Settlement Administrator.

1 Settlement Class Members and PAGA Group Members who received a re-mailed
2 Notice Packet shall have their Response Deadline extended fifteen (15) days from
3 the original Response Deadline.

4 5. Notice Satisfies Due Process. Compliance with the notice
5 procedures specified in this Settlement Agreement shall constitute due and
6 sufficient notice to Settlement Class Members and PAGA Group Members of this
7 Settlement and shall satisfy the requirements of due process. Nothing else shall be
8 required of, or done by, the Parties, Class Counsel, or Defendant's counsel to
9 provide notice of the proposed Settlement. In the event the procedures in this
10 Settlement Agreement are followed and the intended recipient of a Notice Packet
11 still does not receive the Notice Packet, the intended recipient shall be a Settlement
12 Class Member and shall be bound by all the terms of the Settlement and the final
13 judgment entered by the Court if the Settlement becomes effective.
14

15 6. Disputes Regarding Individual Settlement Payments. If a
16 Settlement Class Member and/or PAGA Group Member disagrees with
17 Defendant's records regarding the Compensable Workweeks and/or Compensable
18 PAGA Pay Periods stated in the individual's Notice Packet, the Settlement Class
19 Member and PAGA Group Member may provide written documentation
20 supporting the number of Compensable Workweeks and/or Compensable PAGA
21 Pay Periods the Settlement Class Member and/or PAGA Group Member believes
22 were worked during the Class Period. To exercise this opportunity, Settlement
23 Class Members and/or PAGA Group Members shall submit information to the
24 Settlement Administrator in writing no later than the Response Deadline. If there
25 is a dispute pursuant to this Section N(6), the Settlement Administrator shall
26 consult with the Parties to determine whether an adjustment is warranted. The
27 Settlement Administrator shall determine the eligibility for, and the amounts of,
28 any Individual Settlement Payments under the terms of this Agreement. The

1 Settlement Administrator's determination of the eligibility for and amount of any
2 Individual Settlement Payment shall be binding upon the Settlement Class
3 Member, the PAGA Group Member (if applicable), and the Parties.

4 7. Disputes Regarding Administration of Settlement. Any
5 disputes concerning the administration of the Settlement that are not resolved by
6 the Settlement Administrator shall be resolved by the Court under the laws of the
7 State of California. Prior to any such involvement of the Court, counsel for the
8 Parties shall confer in good faith to resolve any such disputes without the necessity
9 of involving the Court.

10 8. Request for Exclusion. The Notice of Class Action Settlement
11 contained in the Notice Packet shall state that Settlement Class Members who wish
12 to exclude themselves from the Settlement must submit to the Settlement
13 Administrator a signed, written statement requesting exclusion from the Settlement
14 ("Request for Exclusion"). The Request for Exclusion must contain the Settlement
15 Class Member's name, address, telephone number, and the last four digits of the
16 Settlement Class Member's Social Security number and/or driver ID number used
17 by Defendant. The Request for Exclusion shall not be valid if it is not signed by the
18 person requesting exclusion, timely submitted by the Response Deadline, and
19 received by the Settlement Administrator. The date of the postmark on the return
20 mailing envelope on the Request for Exclusion shall be the exclusive means used
21 to determine whether the Request for Exclusion was timely submitted by the
22 Response Deadline. If the postmark is illegible, then the Request for Exclusion
23 must arrive within three (3) days after the Response Deadline to be considered
24 timely. Any Settlement Class Member who requests to be excluded from the
25 Settlement Class shall not be entitled to any recovery under the Settlement and shall
26 not be bound by the terms of the Settlement or have any right to object, appeal, or
27 comment thereon. Settlement Class Members who fail to submit a valid and timely
28

1 written Request for Exclusion on or before the Response Deadline shall be bound
2 by all terms of the Settlement and any final judgment entered in this Action if the
3 Settlement is approved by the Court. No later than fourteen (14) days after the
4 Response Deadline, the Settlement Administrator shall provide counsel for the
5 Parties with a final list of the Settlement Class Members who have timely submitted
6 Requests for Exclusion. At no time shall any of the Parties or their counsel seek to
7 directly or indirectly solicit or otherwise encourage members of the Settlement
8 Class to submit Requests for Exclusion from the Settlement. PAGA Group
9 Members shall not have the opportunity to opt out of or submit a Request for
10 Exclusion concerning (i) their payment from the portion of the PAGA Payment
11 paid to PAGA Group Members or (ii) the Released PAGA Claims set forth in this
12 Settlement Agreement.

13
14 9. Objections. The Notice of Class Action Settlement contained in
15 the Notice Packet shall state that Settlement Class Members who wish to object to
16 the Settlement must serve on the Settlement Administrator a written statement of
17 objection (“Notice of Objection”) by the Response Deadline. The Notice of
18 Objection shall be signed by the Settlement Class Member and state: (1) the full
19 name of the Settlement Class Member; (2) the dates the Settlement Class Member
20 worked for Defendant; (3) the last four digits of the Settlement Class Member’s
21 Social Security number and/or driver ID number used by Defendant; and (4) the
22 basis for the objection. Settlement Class Members who fail to make objections shall
23 be deemed to have waived any objections and shall be foreclosed from making any
24 objections (whether by appeal or otherwise) to the Settlement. The Parties shall
25 have the right to respond in writing to any Notices of Objection prior to the Court’s
26 ruling on the same. Settlement Class Members shall have the right to appear at the
27 final approval hearing in order to have their objections heard by the Court. At no
28 time shall any of the Parties or their counsel seek to directly or indirectly solicit or

1 otherwise encourage Settlement Class Members to file or serve Notice of
2 Objections to the Settlement or to appeal from any of the Court's orders approving
3 this Settlement and or the final judgment. Settlement Class Members who submit
4 a Request for Exclusion are not entitled to object to the Settlement. PAGA Group
5 Members shall not have the right to submit a Notice of Objection or otherwise
6 object to (i) their Individual PAGA Payment or (ii) the Released PAGA Claims set
7 forth in this Settlement Agreement. Plaintiffs shall not have the right to submit any
8 Requests for Exclusion and shall not have the right to object to the Settlement.

9 O. Funding and Allocation of the Gross Settlement Amount. No later
10 than thirty (30) calendar days after the Effective Date (the "Funding Date"),
11 Defendant shall provide the Gross Settlement Amount to the Settlement
12 Administrator to fund the Settlement, as set forth in this Agreement.

13 1. Individual Labor Code Payments. Individual Labor Code
14 Payments shall be paid from the Net Settlement Amount and shall be paid pursuant
15 to the formula set forth in this Article III, Section O.

16 a) Calculation of Individual Labor Code Payments. Using
17 the Driver List, the amount of each Individual Labor Code Payment shall be
18 calculated on a pro rata basis, based on the number of Compensable Workweeks
19 each Settlement Class Member worked during the Class Period. To establish the
20 value of each Compensable Workweek ("Compensable Workweek Value"), the
21 Settlement Administrator shall first determine the total number of Compensable
22 Workweeks worked by the Settlement Class Members during the Class Settlement
23 Period. If a Settlement Class Member's total Compensable Workweeks is less than
24 one (1), the total Compensable Workweek count for that Settlement Class Member
25 shall be rounded up to one (1). For each Settlement Class Member who drove more
26 than fifty percent (50%) of his or her total miles in California as compared to all of
27 the miles the Settlement Class Member drove in the United States or Canada during
28

1 the Class Period, the Compensable Workweeks for that Settlement Class Member
2 shall be enhanced, *i.e.*, multiplied by a factor of three (3) (by way of example and
3 not limitation, a Settlement Class Member who worked 10 Compensable
4 Workweeks shall receive compensation for 30 Compensable
5 Workweeks)(“Enhanced Compensable Workweeks”). The Compensable
6 Workweek Value shall be equal to the Net Settlement Amount divided by the total
7 number of Compensable Workweeks worked by all Settlement Class Members
8 during the Class Period including any Enhanced Compensable Workweeks for
9 Settlement Class Members who drove a majority of miles in California. The
10 Compensable Workweek Value shall be rounded to the nearest cent. The Individual
11 Labor Code Payment to each Settlement Class Member shall be determined by
12 multiplying the Compensable Workweek Value by the total number of
13 Compensable Workweeks that Settlement Class Member worked during the Class
14 Period including any Enhanced Compensable Workweeks for Settlement Class
15 Members who drove a majority of miles in California. The total of all Individual
16 Labor Code Payments to all Settlement Class Members shall equal the Net
17 Settlement Amount. There is no need for a Settlement Class Member to submit a
18 claim form in order to be eligible for and to receive an Individual Labor Code
19 Payment.
20

21 b) Allocation. Individual Labor Code Payments to the
22 Settlement Class Members shall constitute penalties, interest, and reimbursement.
23 There shall be no withholding taken from Individual Labor Code Payments and
24 each Individual Labor Code Payment shall be issued by the Claims Administrator
25 via an IRS Form 1099-MISC.

26 c) Mailing. Individual Settlement Payments shall be mailed
27 by regular First Class U.S. Mail to Settlement Class Members’ last known mailing
28 address no later than forty (40) days after the Effective Date.

1 d) Expiration. Any checks for Individual Settlement
2 Payments issued to Settlement Class Members shall remain valid and negotiable
3 for one hundred and eighty (180) days from the date of their issuance. If a
4 Settlement Class Member does not cash his or her settlement check within 180
5 days, the settlement check, plus any accrued interest on the uncashed funds that has
6 not been distributed pursuant to an order of the Court, shall be voided by the
7 Settlement Administrator and the Settlement Administrator shall take all steps
8 necessary to ensure that the uncashed funds from the Settlement Class Member's
9 uncashed settlement check and all other unpaid cash residue(s) or unclaimed or
10 abandoned fund(s) are distributed to the California State Controller's Office
11 Unclaimed Property Fund in the name of the Settlement Class Member.
12

13 2. Service Award. Plaintiffs intend to request a Service Award of
14 up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for each Plaintiff, totaling
15 Twenty Thousand Dollars and Zero Cents (\$20,000.00). The Service Awards are
16 for the Class Representatives' time, effort, and risk in bringing and prosecuting the
17 Action, and for the execution of a general release and waiver of California Civil
18 Code Section 1542, including the release of any and all known or unknown non-
19 wage related claims that Plaintiffs may have against Defendant, as set forth above.
20 The Settlement Administrator shall pay the Service Awards to the Class
21 Representatives from the Gross Settlement Amount no later than forty (40) days
22 after the Effective Date. Any portion of the requested Service Awards that is not
23 awarded to the Class Representatives by the Court shall be part of the Net
24 Settlement Amount and shall be distributed to Settlement Class Members as
25 provided in this Agreement. The Settlement Administrator shall issue the Service
26 Awards to the Class Representatives via an IRS Form 1099-MISC. The Class
27 Representatives shall be solely and legally responsible to pay any and all applicable
28 taxes on their respective Service Awards and shall hold harmless Defendant from

any claim or liability for taxes, penalties, or interest arising as a result of the Service Awards. The Class Representatives' Service Awards shall be in addition to their Individual Settlement Payments as Settlement Class Members.

3. Class Counsel's Attorneys' Fees and Costs. Class Counsel intend to seek attorneys' fees not to exceed Three Hundred Thirty Thousand Dollars and Zero Cents (\$330,000.00) for the Class Counsel Fees Award and costs and expenses not to exceed Nineteen Thousand Dollars and Zero Cents (\$19,000.00) for the Class Counsel Costs Award, supported by a declaration from Class Counsel, to be paid from the Gross Settlement Amount. The Parties agree that any and all claims for attorneys' fees and costs have been settled by this Agreement and that Plaintiffs, Settlement Class Members, and Class Counsel shall not seek payment of attorneys' fees or reimbursement of costs or expenses from Defendant, except as set forth in this Agreement. Any portion of the requested Class Counsel Fees Award or Class Counsel Costs Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. Notwithstanding any other provisions of this Agreement, the Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs and, in the event that the Court does not approve the requested amounts of or reduces the amounts of the Class Counsel Fees Award and/or the Class Counsel Costs Award, Plaintiffs and Class Counsel shall not have the right to modify or revoke the Settlement or to appeal such order, nor will Plaintiffs or Class Counsel seek, request, or demand an increase to the Gross Settlement Amount on that basis. The Settlement Administrator shall pay the Class Counsel Fees Award and the Class Counsel Costs Award to Class Counsel from the Gross Settlement Amount no later than forty (40) days after the Effective Date. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the Class Counsel Fees Award

1 and the Class Counsel Costs Award. Class Counsel agrees to provide the Settlement
2 Administrator (and not Defendant or Defendant's counsel) with executed IRS Form
3 W-9s within five (5) days after the Funding Date and before payments for the Class
4 Counsel Fees Award and Class Counsel Costs Award are issued. The Settlement
5 Administrator shall issue the Class Counsel Fees Award and the Class Counsel
6 Costs Award to Class Counsel via an IRS Form 1099-MISC. Neither Class Counsel
7 nor any other current or past counsel for Plaintiffs shall be permitted to petition the
8 Court for, or accept, any additional payments for fees, costs, or interest, and the
9 Class Counsel Fees Award and Class Counsel Costs Award shall be in full
10 satisfaction of all claims for attorneys' fees and costs whenever incurred, including
11 past and present fees and costs incurred in the Action to date and through and
12 including the Effective Date, final distribution of all payments under this
13 Settlement Agreement, and final judgment. Payment of the Class Counsel Fees
14 Award and Class Counsel Costs Award to Class Counsel as set forth herein shall
15 constitute full satisfaction of the obligation to pay any amounts to any person,
16 attorney or law firm for attorneys' fees, expenses or costs in the Action incurred by
17 any attorney on behalf of Plaintiffs, the Settlement Class, and/or any of the PAGA
18 Group Members, and shall relieve the Settlement Class, PAGA Group Members,
19 Defendant, the Settlement Administrator, and Defendant's counsel of any other
20 claims or liability to any other attorney or law firm for any attorneys' fees,
21 expenses, and costs to which any of them may claim to be entitled on behalf of
22 Plaintiffs, the Settlement Class, or the PAGA Group Members in connection with
23 the claims released in this Settlement.
24

25 4. PAGA Payment. Fifty Thousand Dollars and Zero Cents
26 (\$50,000.00) shall be allocated from the Gross Settlement Amount for settlement
27 of claims for civil penalties under the PAGA. The Settlement Administrator shall
28 pay the LWDA PAGA Payment to the LWDA no later than forty (40) days after

the Effective Date. The remaining Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) of the PAGA Payment shall be distributed by the Settlement Administrator to PAGA Group Members as follows:

a) Calculation of Individual PAGA Payments. Using the Driver List, the remaining Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) shall be distributed to all PAGA Group Members, with each receiving a pro rata share based on the number of Compensable PAGA Pay Periods for each PAGA Group Member during the PAGA Period. To establish the value of each Compensable PAGA Pay Period (“Compensable PAGA Period Value”), the Settlement Administrator shall first determine the total number of Compensable PAGA Pay Periods for the PAGA Group Members during the PAGA Period. For each PAGA Group Member who drove more than fifty percent (50%) of his or her total miles in California as compared to all of the miles the PAGA Group Member drove during the PAGA Period, the Compensable PAGA Pay Periods shall be enhanced, *i.e.*, multiplied by a factor of three (3) (by way of example and not limitation, such PAGA Group Member who worked 10 Compensable PAGA Pay Periods shall receive compensation for 30 Compensable PAGA Pay Periods) (“Enhanced Compensable PAGA Pay Periods”). The Compensable PAGA Period Value shall be equal to Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) divided by the total number of Compensable PAGA Pay Periods for all PAGA Group Members during the PAGA Period including any Enhanced Compensable PAGA Pay Periods for PAGA Group Members who drove a majority of miles in California during the PAGA Period. The Compensable PAGA Period Value shall be rounded to the nearest cent. The payment to each PAGA Group Member shall be determined by multiplying the Compensable PAGA Period Value by the total number of Compensable PAGA Pay Periods that PAGA Group Member worked during the PAGA Period including any Enhanced Compensable

1 PAGA Pay Periods for PAGA Group Members who drove a majority of miles in
2 California. The total of all Individual PAGA Payments to all PAGA Group
3 Members shall equal Twelve Thousand Five Hundred Dollars and Zero Cents
4 (\$12,500.00). In the event that the Court awards less than the full amount of the
5 PAGA Payment, the unawarded amount shall remain in the Net Settlement Amount
6 and be distributed to Settlement Class Members in accordance with this
7 Agreement.

8 b) Allocation. The Individual PAGA Payments paid to the
9 PAGA Group Members shall constitute penalties and interest. There shall be no
10 withholding taken from the Individual PAGA Payments and each PAGA Group
11 Member's Individual PAGA Payment shall be issued by the Settlement
12 Administrator via an IRS Form 1099-MISC.

13 c) Mailing. Individual PAGA Payments shall be included as
14 part of the Individual Settlement Payments and mailed by regular First Class U.S.
15 Mail to each PAGA Group Member's last known mailing address no later than
16 forty (40) days after the Effective Date.

17 d) Expiration. Any settlement checks issued to PAGA
18 Group Members shall remain valid and negotiable for one hundred and eighty (180)
19 days from the date of their issuance. If a PAGA Group Member does not cash his
20 or her settlement check within 180 days, the settlement check, plus any accrued
21 interest on the uncashed funds that has not been distributed pursuant to an order of
22 the Court, shall be voided by the Settlement Administrator and the Settlement
23 Administrator shall take all steps necessary to ensure that the uncashed funds from
24 the PAGA Group Member's uncashed settlement check and all other unpaid cash
25 residue(s) or unclaimed or abandoned fund(s) are distributed to the California State
26 Controller's Office Unclaimed Property Fund in the name of the appropriate PAGA
27 Group Member.
28

1 5. Settlement Administration Costs. The Settlement
2 Administration Costs shall be paid from the Gross Settlement Amount and shall
3 not exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00). The
4 Settlement Administrator shall be paid the Settlement Administration Costs no later
5 than forty (40) days after the Effective Date.

6 P. Government Actions Affecting Settlement. If any proceeding or
7 action is commenced on or before a date that is one (1) year from the Preliminary
8 Approval Date by any federal, state, or local government authority, including,
9 without limitation, the U.S. Department of Labor or the Division of Labor
10 Standards Enforcement of the California Department of Industrial Relations
11 asserting any claims released by this Settlement, Plaintiffs and Class Counsel shall
12 sign an appropriate declaration at the request of Defendant supporting the
13 Settlement and asserting that the governmental action is within the scope of this
14 Settlement, the Action, and the Court's order granting final approval of the
15 Settlement and entering a final judgment. Additionally, in the event any action is
16 commenced by a governmental authority as stated herein, Defendant shall have the
17 option to seek an order from the Court requesting that Individual Settlement
18 Payments to the Settlement Class Members be immediately suspended pending the
19 outcome of the suit or administrative proceeding brought by the governmental
20 authority.
21

22 Q. Final Approval Motion. At the earliest practicable time following the
23 expiration of the Response Deadline, Plaintiffs shall file with the Court a Motion
24 for Order Granting Final Approval and Entering Judgment, which motion shall
25 request final approval of the Settlement and the amounts payable for the Individual
26 Settlement Payments, Service Awards, Class Counsel Costs Award, Class Counsel
27 Fees Award, LWDA PAGA Payment, and Settlement Administration Costs. Upon
28 final approval of the Settlement by the Court at or after the final approval hearing,

1 the Parties shall present a Proposed Final Judgment to the Court for its approval.
2 Class Counsel shall be responsible for drafting all documents necessary to obtain
3 final approval of the Settlement, including the Final Judgment.

4 1. Declaration by Settlement Administrator. Upon completion of
5 the administration of the Settlement, the Settlement Administrator shall submit a
6 declaration, under penalty of perjury, in support of Plaintiffs' motion for final
7 approval of this Settlement detailing (a) the number of Notice Packets mailed and
8 re-mailed to Settlement Class Members, (b) the number of undeliverable Notice
9 Packets, (c) the number of timely Requests for Exclusion, (d) the number of timely
10 objections received, (e) the amount of the average Individual Settlement Payment,
11 (f) the Settlement Administration Costs, (g) the confirmed mailing of notices to the
12 appropriate federal and state governmental officials pursuant to 28 U.S.C. § 1715,
13 and (h) any other information as the Parties mutually agree or the Court orders the
14 Settlement Administrator to provide.

15 2. Final Approval Order and Judgment. The Parties shall present
16 a Judgment and Order Granting Final Approval of Class Action Settlement to the
17 Court for its approval. The Final Judgment shall, among other things:

18 (a) Find that the Court has personal jurisdiction over all Settlement
19 Class Members and PAGA Group Members, and that the Court has subject matter
20 jurisdiction to approve this Settlement and all exhibits thereto;

21 (b) Approve this Agreement and the proposed Settlement as fair,
22 reasonable, and adequate, consistent and in compliance with all applicable
23 requirements of the Federal Rules of Civil Procedure, the California and United
24 States Constitutions, the Central District of California Local Rules and any other
25 applicable law, and in the best interests of each of the Parties and the Settlement
26 Class Members and PAGA Group Members;

27 (c) Direct the Parties and their counsel to implement this
28 Agreement according to its terms and provisions and declare this Agreement as to

1 the Released Class Claims to be binding on Plaintiffs and all other Settlement Class
2 Members, except those who timely and properly filed Request for Exclusions, as
3 well as their heirs, executors, and administrators, successors and assigns; and also
4 declare that the judgment entered by the Court as to the Released PAGA Claims is
5 binding on all PAGA Group Members;

6 (d) Find that the Notice Packet and notice methodology
7 implemented pursuant to this Agreement (i) constituted the best practicable notice;
8 (ii) constituted notice that was reasonably calculated, under the circumstances, to
9 apprise Settlement Class Members of the pendency of the Action, their right to
10 object to or exclude themselves from the proposed Settlement, and their right to
11 appear at the final approval hearing; (iii) were reasonable and constituted due,
12 adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met
13 all applicable requirements of the Federal Rules of Civil Procedure, the California
14 and United States Constitutions, the Central District of California Local Rules, and
15 any other applicable law;

16 (e) Find that Plaintiffs and Class Counsel adequately represented
17 the Settlement Class for purposes of entering into and implementing the Settlement;

18 (f) Dismiss the Action (including all individual claims, Released
19 Class Claims, and Released PAGA Claims) with prejudice, without fees or costs to
20 any party except as provided in this Agreement; and

21 (h) State that, without affecting the finality of the final judgment,
22 the Court shall retain continuing jurisdiction over the Action, the Parties, and the
23 Settlement Class, as well as the administration and enforcement of the Settlement.
24 Any disputes or controversies arising with respect to the interpretation,
25 consummation, enforcement, or implementation of the Settlement shall be
26 presented by motion to the Court.

27 R. Option to Terminate Settlement. If, after the Response Deadline, the
28 total number of Settlement Class Members who submitted timely and valid

1 Requests for Exclusion from the Settlement is at least two percent (2%) of the total
2 number of all Settlement Class Members, Defendant shall have, in its sole
3 discretion, the option to terminate this Settlement, in which case the Parties shall
4 proceed in all respects as if this Agreement had not been executed. If Defendant
5 exercises the option to terminate this Settlement pursuant to this provision,
6 Defendant shall: (a) provide written notice to Class Counsel within fourteen (14)
7 days after the Response Deadline and (b) pay all Settlement Administration Costs
8 incurred up to the date or as a result of the termination.

9 S. Motions for Preliminary and Final Approval. Class Counsel shall
10 provide an opportunity for counsel for Defendant to review the motions for
11 preliminary and final approval of this Settlement prior to filing with the Court. The
12 Parties and their counsel shall cooperate with each other and use their best efforts
13 to seek Court approval of the motions for preliminary and final approval of this
14 Settlement.

15 T. No Impact on Benefit Plans. Neither this Settlement nor any amounts
16 paid under the Settlement shall modify any previously credited hours or service
17 under any benefit plan, policy, or bonus program sponsored by Defendant. Such
18 amounts shall not form the basis for additional contributions to, benefits under, or
19 any other monetary entitlement under Defendant-sponsored benefit plans, policies,
20 or bonus programs. The payments made under the terms of this Settlement shall
21 not be applied retroactively, currently, or on a going forward basis, as salary,
22 earnings, wages, or any other form of compensation for the purposes of
23 Defendant's benefit plans, policies, or bonus programs. Defendant retains the right
24 to modify the language of its benefit plans, policies and bonus programs to effect
25 this intent and to make clear that any amounts paid pursuant to this Settlement are
26 not for "hours worked," "hours paid," "hours of service," or any similar measuring
27 term as defined by applicable plans, policies, and bonus programs for purposes of
28

1 eligibility, vesting, benefit accrual, or any other purpose, and that additional
2 contributions or benefits are not required by this Settlement.

3 U. Notices. Unless otherwise specifically provided herein, all notices,
4 demands, or other communications required under this Settlement shall be in
5 writing and shall be deemed to have been duly given as of the third (3rd) business
6 day after mailing by United States certified mail, return receipt requested,
7 addressed as follows:

8 **To Plaintiffs and the Settlement Class:**

9 Sam Kim

10 VERUM LAW GROUP, APC

11 360 North Pacific Coast Highway, Suite 1025

12 El Segundo, CA 90245

13 Telephone: (424) 320-2000

14 Facsimile: (424) 221-5010

15 **To Defendant:**

16 Angela S. Cash

17 SCOPELITIS, GARVIN, LIGHT, HANSON & FEARY, P.C.

18 10 West Market Street, Suite 1400

19 Indianapolis, IN 46204

20 Telephone: (317) 637-1777

21 Facsimile: (317) 687-2414

22 V. Cooperation. The Parties and their counsel shall cooperate with each
23 other and use their best efforts to implement the Settlement. The Parties have
24 cooperated in the drafting and preparation of this Agreement. Hence, in any
25 construction made to this Agreement, the same shall not be construed against any
26 of the Parties.

27 W. Admissibility of Agreement. This Agreement shall not be admissible
28 in any proceeding for any purpose, except in a proceeding to enforce its terms.

1 X. Amendment or Modification. This Agreement may be amended or
2 modified only by a written instrument signed by counsel for all Parties or their
3 successors-in-interest and approved by the Court.

4 Y. Entire Agreement. This Agreement and any attached exhibits
5 constitute the entire Agreement among the Parties, and no oral or written
6 representations, warranties, or inducements have been made to any Party
7 concerning this Agreement or its exhibits other than the representations, warranties,
8 and covenants contained and memorialized in this Agreement and its exhibits.

9 Z. Authorization to Enter into Settlement Agreement. Counsel for all
10 Parties warrant and represent they are expressly authorized by the Parties whom
11 they represent to negotiate this Agreement and to take all appropriate actions
12 required or permitted to be taken by such Parties pursuant to this Agreement to
13 effectuate its terms, and to execute any other documents required to effectuate the
14 terms of this Agreement. The persons signing this Agreement on behalf of
15 Defendant represent and warrant that they are authorized to sign this Agreement on
16 behalf of Defendant. Plaintiffs represent and warrant that they are authorized to
17 sign this Agreement and that they have not assigned any claim, or part of a claim,
18 covered by this Settlement to a third-party.

19 AA. Binding on Successors and Assigns. This Agreement shall be binding
20 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as
21 previously defined.

22 BB. California Law Governs. All terms of this Agreement and the exhibits
23 hereto and any disputes arising thereunder shall be governed by and interpreted
24 according to the laws of the State of California.

25 CC. Counterparts. This Agreement may be executed in one or more
26 counterparts. All executed counterparts and each of them shall be deemed to be one
27 and the same instrument provided that counsel for the Parties to this Agreement
28

1 shall exchange among themselves copies or originals of the signed counterparts. A
2 facsimile or electronic signature shall be deemed an original signature for purposes
3 of executing this Agreement.

4 DD. Headings. Section titles, captions, or headings contained in this
5 Settlement are inserted as a matter of convenience and for reference only and in no
6 way define, limit, extend, or describe the scope of this Settlement or any provision
7 thereof.

8 EE. This Settlement Is Fair, Adequate, and Reasonable. The Parties
9 believe this Settlement is a fair, adequate, and reasonable settlement of this Action.
10 The Parties arrived at this Settlement after extensive arms-length negotiations,
11 taking into account all relevant factors, present and potential, and after participating
12 in a full-day mediation with a well-regarded mediator with experience mediating
13 complex labor and employment matters.

14 FF. Jurisdiction of the Court. The Parties agree that the Court shall retain
15 jurisdiction with respect to the interpretation, implementation, and enforcement of
16 the terms of this Agreement and all orders and judgments entered in connection
17 therewith, and the Parties and their counsel hereto submit to the jurisdiction of the
18 Court for these purposes.

19 GG. Invalidity of Any Provision. Before declaring any provision of this
20 Agreement invalid, the Court shall first attempt to construe the provision to be valid
21 to the fullest extent possible consistent with applicable precedents and other law so
22 as to render all provisions of this Agreement valid and enforceable. Should the
23 Court deem any clause or provision of this Agreement to be invalid, illegal, or
24 unenforceable, the Court shall first attempt to modify or reform the provision or
25 clause as minimally necessary to be valid, lawful, and enforceable. Should the
26 Court deem any clause or provision of this Agreement to be invalid, illegal, or
27 unenforceable and its modification or reformation is not possible, then invalidation
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1 of any material provision of the Settlement shall invalidate the Settlement in its
2 entirety, unless the Parties shall subsequently agree in writing that the remaining
3 provisions of the Settlement are to remain in full force and effect. A modification
4 or reversal on appeal of any amount of the Class Counsel Fees Award, Class
5 Counsel Costs Award, or Service Awards shall not be deemed to be an invalidation
6 of a material provision of this Settlement. The parties shall be equally responsible
7 for all Settlement Administration Costs incurred by the Settlement Administrator
8 as of the time the Settlement is invalidated except as otherwise provided in Article
9 III, Section R above.

10 HH. Publicity. Neither Plaintiffs nor Class Counsel shall issue any press
11 release or announcement of any kind related in any way to the Settlement. Plaintiffs
12 and Class Counsel agree that, prior to preliminary approval of the Settlement, they
13 shall keep the terms of the Settlement confidential except for purposes of
14 communicating with Plaintiffs only. Plaintiffs understand that the Settlement is
15 confidential and shall keep the Settlement confidential. From and after preliminary
16 approval of the Settlement, Plaintiffs and Class Counsel may comment regarding
17 the specific terms of the Settlement only: (1) as required by law; (2) as required
18 under the terms of the Settlement; or (3) as required under Class Counsel's duties
19 and responsibilities as class counsel. In all other cases, Plaintiffs and Class Counsel
20 shall limit their statements regarding the terms of the Settlement, whether oral,
21 written, or electronic, to say the Action has been resolved and that Plaintiffs and
22 Class Counsel are satisfied with the settlement terms. Nothing in this Section is
23 intended to interfere with Class Counsel's duties and obligations to faithfully
24 discharge their duties as class counsel, including but not limited to, communicating
25 with Settlement Class Members regarding the Settlement, and nothing shall
26 prohibit Class Counsel from referring to the Settlement in adequacy of counsel
27 declarations or related filings with the Court.
28

1 II. Waiver of Certain Appeals. Except as provided herein, the Parties
2 agree to waive any and all rights to appeal, this waiver being contingent upon the
3 Court entering an order finally approving this Settlement and entering a final
4 judgment. This waiver includes waiver of all rights to any post-judgment
5 proceedings and appellate proceedings, including, but not limited to, motions for
6 relief from judgment and motions to amend or alter the judgment.

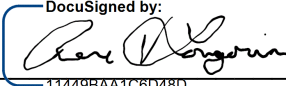
7 JJ. Waiver of Money or Damages. Plaintiffs agree that, to the extent
8 permitted by law, if any claim released by this Settlement is prosecuted in either of
9 their names against Released Parties before any court or administrative agency,
10 Plaintiffs shall waive and agree not to take any award of money or other damages
11 from such proceeding. Plaintiffs further agree that, if any claim released by this
12 Settlement is prosecuted in either of their names against Released Parties that,
13 unless otherwise compelled by law, Plaintiffs shall immediately request in writing
14 that the claim be withdrawn.

15 KK. No Admissions. Plaintiffs have claimed and continue to claim that the
16 Released Class Claims and Released PAGA Claims have merit and give rise to
17 liability on the part of Defendant. Defendant has claimed and continues to claim
18 that the Released Class Claims and Released PAGA Claims have no merit and do
19 not give rise to liability on the part of Defendant. This Agreement is a compromise
20 of disputed claims. Nothing contained in this Agreement and no documents
21 referred to herein and no action taken to carry out this Agreement may be construed
22 or used as an admission by or against the Defendant or Plaintiffs or Class Counsel
23 as to the merits or lack thereof of the claims asserted in the Action. Whether or not
24 the Settlement is finally approved, neither the Settlement, nor any document,
25 statement, proceeding, or conduct related to this Settlement, nor any reports or
26 accounts thereof, shall in any event be: (1) construed as, offered or admitted in
27 evidence as, received as, or deemed to be evidence for any purpose adverse to the
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Released Parties, including, but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or (2) disclosed, referred to, or offered or received in evidence against any of the Released Parties in any further proceeding in the Action, or any other civil, criminal, or administrative action or proceeding, except for purposes of settling the Action pursuant to this Settlement.

LL. Period to Consider Terms of Agreement. Plaintiffs acknowledge that they are entitled to and have been provided twenty-one (21) days to consider whether to accept the terms of this Settlement, including the terms of the releases set forth in herein. If Plaintiffs execute this Settlement before the expiration of 21-day period, they do so voluntarily, upon the advice and with the approval of Class Counsel, and they expressly and voluntarily waive their right to consider the terms of this Settlement, including the terms of the releases set forth herein, for any remaining portion of that 21-day period. Plaintiffs further acknowledge that, after executing this Settlement, they have the right to revoke it within seven (7) days after execution. Plaintiffs understand that this Settlement will not become effective and enforceable unless and until the 7-day revocation period has expired.

Dated: October 11, 2023

DocuSigned by:

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Plaintiff Rene Longoria

Dated: October __, 2023

Plaintiff Nicolas Merezko

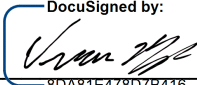
Released Parties, including, but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or (2) disclosed, referred to, or offered or received in evidence against any of the Released Parties in any further proceeding in the Action, or any other civil, criminal, or administrative action or proceeding, except for purposes of settling the Action pursuant to this Settlement.

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Dated: October __, 2023

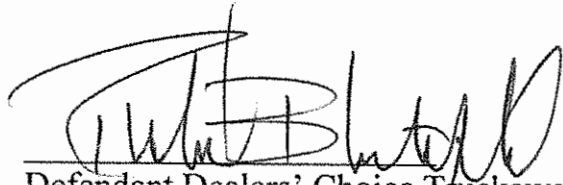
Plaintiff Rene Longoria

Dated: October 10, 2023

DocuSigned by:


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Plaintiff Nicolas Merezko

1 Dated: October 10, 2023


Defendant Dealers' Choice Truckaway
System, Inc. dba Truckmovers
Rick Lantefield
Chief Financial Officer

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5 **AGREED AS TO FORM:**

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8 Dated: October __, 2023

9 _____
Sam Kim
Verum Law Group, APC
Attorneys for Plaintiffs

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15 Dated: October __, 2023

16 _____
Angela S. Cash
Scopelitis, Garvin, Light, Hanson & Feary,
P.C.
Attorneys for Defendant

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20 4895-5516-3256, v. 10

1 Dated: October____, 2023

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3 Defendant Dealers' Choice Truckaway
4 System, Inc. dba Truckmovers
5 Rick Lantefield
6 Chief Financial Officer

7 **AGREED AS TO FORM:**

8 Dated: October 11, 2023

9 
10 Sam Kim
11 Verum Law Group, APC
12 Attorneys for Plaintiffs

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15 Dated: October 10, 2023

16 
17 Angela S. Cash
18 Scopelitis, Garvin, Light, Hanson & Feary,
19 P.C.
20 Attorneys for Defendant

21 4895-5516-3256, v. 10