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THE FOSTER PRINTING COMPANY, INC.

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

ARTURO HERNANDEZ ESCORCIA, an
individual and on behalf of all others similarly
situated,

Plaintiff,

v.

THE FOSTER PRINTING COMPANY, INC., a
California corporation; DENNIS M.
BLACKBURN, an individual; KRISTOPHER T.
BLACKBURN, an individual; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 30-2023-01303441-CU-OE-CXC
[Related Case No.: 30-2023-01333328-CU-OE-
CXC]

**CLASS & PAGA REPRESENTATIVE
ACTIONS**

**JOINT STIPULATION OF CLASS
ACTIONS SETTLEMENT AND RELEASE
OF CLAIMS**

*[Assigned for All Purposes to the Hon.
Melissa McCormick; Dept. CX104]*

Complaint Filed: January 24, 2023
Trial Date: Not Yet Set

1 This Joint Stipulation of Class Actions Settlement and Release of Claims (“Settlement” or
2 “Agreement”) is made and entered into by and between Plaintiff ARTURO HERNANDEZ
3 ESCORCIA (“Plaintiff”), individually and on behalf of all putative class members, and Defendant
4 THE FOSTER PRINTING COMPANY, INC. (“Defendant”). Plaintiff and Defendant are
5 collectively referred to herein as “the Parties.”

6 **I. DEFINITIONS**

7 The following definitions are applicable to this Settlement, in addition to other terms defined
8 elsewhere in this Settlement:

9 1. “Actions” shall mean the Plaintiff’s lawsuit alleging wage and hour violations
10 against Defendant captioned *Arturo Hernandez Escorcia v. The Foster Printing Company, Inc., et*
11 *al.*, Case No. 30-2023-01303441-CU-OE-CXC, filed on January 24, 2023, in the Orange County
12 Superior Court (the “Class Action”) and the representative Actions lawsuit entitled *Arturo*
13 *Hernandez Escorcia v. The Foster Printing Company, Inc., et al.*, Case No.: 30-2023-01333328-
14 CU-OE-CXC, filed on June 22, 2023, in the Riverside County Superior Court (the “PAGA
15 Actions,” and together, the “Action”).

16 2. “Class” shall mean all current and former hourly-paid, non-exempt employees of
17 Defendant in California during the Class Period. “Class Member” shall mean an individual who is a
18 member of the Class (or if any such person is incompetent, deceased, or unavailable due to military
19 service, the person’s legal representative or successor in interest evidenced by reasonable
20 verification).

21 3. “Class Counsel” shall mean the attorneys representing Plaintiff in the Actions,
22 including David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, P.C.

23 4. “Class Counsel Fees Payment” shall mean thirty-five percent (35%) of the Gross
24 Settlement Amount (currently estimated to be One Hundred and Forty Thousand Dollars and Zero
25 Cents (\$140,000.00)) subject to approval by the Superior Court as Class Counsel’s attorneys’ fees
26 incurred in connection with the Actions, including fees incurred in pre-filing investigation, filing of
27 the Actions, and all related litigation activities, this Settlement, and all post-Settlement compliance
28 procedures.

1 5. “Class Counsel Litigation Expenses Payment” shall mean the actual litigation
2 expenses and/or costs expended by Class Counsel subject to approval by the Superior Court
3 incurred in connection with the Actions, including pre-filing investigation, filing of the Actions, and
4 all related litigation activities, this Settlement, and all post-Settlement compliance procedures. Class
5 Counsel’s expenses are not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00).

6 6. “Class Notice” shall mean the Notice of Proposed Settlement, Preliminary Approval
7 of Settlement, and Hearing Date for Final Court Approval, a sample of which is attached hereto as
8 Exhibit “A”. The Class Notice shall further contain (i) a Class Member’s first and last name, (ii)
9 last known address, (iii) the Class Member’s Individual Workweeks, (iv) the Aggrieved Employee’s
10 Individual Pay Periods, if applicable; (v) the Class Member’s estimated amount of the Settlement
11 Share; and (vi) the Aggrieved Employee’s estimated PAGA Payment Share, if applicable. The
12 Class Notice shall also provide the Class Members with instructions on how to opt-out of and/or
13 object to the Settlement.

14 7. “Class Period” shall mean the period of time from January 24, 2019, through
15 August 5, 2024.

16 8. “Class Representative Payment” shall mean the special payment made to Plaintiff in
17 his capacity as Class Representative to compensate him for prosecuting the Actions, and performing
18 work in support of the Actions, in the amount of Seven Thousand, Five Hundred Dollars and Zero
19 Cents (\$7,500.00), subject to approval by the Superior Court.

20 9. “Defense Counsel” shall mean the attorneys representing Defendant in the Actions,
21 Matthew C. Sgnilek, Esq. and Andrea Rosenkranz, Esq. of O’Hagan Meyer.

22 10. “Effective Date” shall mean the first business day following the last of the following
23 occurrences: (i) if no Class Member both objects and also files either a timely motion to intervene
24 and/or timely motion to vacate the judgment, then sixty (60) days following the date the Court
25 enters an order granting Final Approval of the Settlement; (ii) if a Class Member both objects and
26 either files a timely motion to intervene or timely motion to vacate the judgment, then sixty-one
27 (61) days following the date the Court enters an order granting final approval, assuming no appeal is
28 filed; or (iii) if a Class Member both objects and also files a timely motion to intervene or files a

1 motion to vacate the Judgment and also files a timely appeal, then the date of final resolution of that
2 appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final and
3 complete judicial approval of the Settlement in its entirety, with no further challenge to the
4 Settlement being possible. The occurrence of the Effective Date is a prerequisite to any obligation
5 of Defendant to pay any funds into the Settlement Account.

6 11. "Employer's Payroll Taxes" shall mean Defendant's share of all payroll taxes
7 payable to any and all government agencies incurred for any payments of Settlement Shares to
8 Participating Class Members pursuant to this Settlement. Defendant's payment of the normal
9 employer's share of payroll taxes will be made separately and shall not come from the Gross
10 Settlement Amount.

11 12. "Final Approval Hearing" shall mean the hearing to be conducted by the Superior
12 Court to determine whether to finally approve and implement the terms of this Settlement.

13 13. "Gross Settlement Amount" shall mean the Gross settlement amount of Four
14 Hundred Thousand Dollars and Zero Cents (\$400,000.00) payable by Defendant as provided by
15 this Agreement, unless that amount is increased pursuant to Paragraph 60 below, exclusive of the
16 normal employer's share of any payroll taxes attributable to the Settlement Share payments
17 allocated to wages ("Employer's Payroll Taxes"). Defendant's payment of the normal employer's
18 share of payroll taxes will be made separately and shall not come from the Gross Settlement
19 Amount.

20 14. "Individual Pay Periods" shall mean the number of Pay Periods for an individual
21 Aggrieved Employee.

22 15. "Individual Workweeks" shall mean the number of Workweeks for an individual
23 Class Member.

24 16. "Judgment" shall mean the Order of Final Judgment entered by the Superior Court
25 that the Parties anticipate will be entered following a Final Approval Hearing on the Settlement in
26 this Actions.

27 17. "LWDA Payment" shall mean the payment to the California Labor and Workforce
28 Development Agency ("LWDA") constituting seventy-five percent (75%) of the value assigned to

1 the claim for penalties under the California Labor Code Private Attorneys General Act, California
2 Labor Code Section 2698, *et seq.* (“PAGA”). Specifically, Fifteen Thousand Dollars and Zero
3 Cents (\$15,000.00), which shall constitute the LWDA’s seventy-five percent (75%) share of
4 Twenty Thousand Dollars and Zero Cents (\$20,000.00) in civil penalties paid under this Settlement.
5 The remaining Five Thousand Dollars and Zero Cents (\$5,000.00) in civil penalties shall be
6 distributed on a *pro rata* basis based upon the number of pay periods worked by each Aggrieved
7 Employee (“PAGA Payment”).

8 18. “Net Settlement Amount” shall mean the Gross Settlement Amount, less (i) the Class
9 Representative Payment approved by the Superior Court; (ii) the Class Counsel Fees Payment
10 approved by the Superior Court; (iii) the Class Counsel Litigation Expenses Payment approved by
11 the Superior Court; (iv) the LWDA Payment approved by the Superior Court; (v) the PAGA
12 Payment approved by the Superior Court; (vi) the Settlement Administrator Payment approved by
13 the Superior Court; and (vii) any other fees or expenses (other than Class Counsel Fees Payment
14 and Class Counsel Litigation Expenses Payment) incurred in implementing the terms and conditions
15 of this Agreement as approved by the Superior Court.

16 19. “Non-Participating Class Member” shall mean a Class Member who submits a
17 complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
18 provided in the Class Notice.

19 20. “PAGA Group” shall mean all current and former hourly-paid, non-exempt
20 employees of Defendant in California during the PAGA Period. “Aggrieved Employee” shall mean
21 an individual who is a member of the PAGA Group (or if any such person is incompetent, deceased,
22 or unavailable due to military service, the person’s legal representative or successor in interest
23 evidenced by reasonable verification).

24 21. “PAGA Payment” shall mean the 25% (or Five Thousand Dollars and Zero Cents
25 (\$5,000.00) of the value assigned to the claim for penalties under the California Labor Code Private
26 Attorneys General Act, California Labor Code Section 2698, *et seq.* (“PAGA”) to be distributed on
27 a *pro rata* basis based upon the number of pay periods worked by each Aggrieved Employee.

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22. “PAGA Payment Share” shall mean the value of each Aggrieved Employee’s share of the PAGA Payment as provided by this Agreement.

23. “PAGA Period” shall mean the period of time from January 24, 2022, through the end of the Class Period.

24. “Participating Class Member” shall mean all Class Members who have not submitted a complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions provided in the Class Notice.

25. “Pay Period” shall mean any pay period in which a Class Member actually received payment from Defendant as an hourly-paid, non-exempt employee.

26. “Preliminary Approval” shall mean the Superior Court’s preliminary approval of the Settlement without material change that the Parties anticipate will be made following submission of this Agreement to the Court.

27. “Settlement Administrator” shall mean Phoenix Settlement Administrators proposed by the Parties and appointed by the Superior Court to administer the Settlement.

28. “Settlement Administrator Payment” shall mean the payment to the Settlement Administrator for its fees and expenses in administering this Settlement.

29. “Settlement Share” shall mean the value of each Participating Class Member’s share of the Net Settlement Amount as provided by this Agreement.

30. “Superior Court” shall mean the Superior Court of California for the County of San Luis Obispo.

31. “Workweek” shall mean any week in which a Class Member actually performed work for Defendant during the Class Period.

II. RECITALS

32. On January 24, 2023, Escorcía filed a Class Action Complaint against Defendant in the Orange County Superior Court, Case No. 30-2023-01303441-CU-OE-CXC, alleging causes of action for (1) Failure to Pay Overtime Wages; (2) Failure to Pay Minimum Wages; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Breaks; (5) Waiting Time Penalties; (6) Wage Statement Violations; (7) Failure to Timely Pay Wages; (8) Failure to Reimburse Business

1 Expenses; (9) Failure to Pay Vested Vacation Wages; and (10) Unfair Business Practices (the
2 “Class Action”).

3 33. On January 24, 2023, Class Counsel, on behalf of Plaintiff and the PAGA Group,
4 gave written notice to the Labor Workforce and Development Agency (“LWDA”) of the Labor
5 Code violations Defendant is alleged to have violated (“LWDA Exhaustion Letter”).

6 34. On June 22, 2023, Plaintiff filed a Representative PAGA Action Complaint against
7 Defendant in the Orange County Superior Court, Case No. 30-2023-1333328-CU-OE-CXC,
8 alleging a cause of action for Civil Penalties pursuant to the Private Attorneys’ General Act of 2004
9 (“PAGA”) (the “PAGA Action”).

10 35. Defendant denies and continues to deny all of Plaintiff’s material allegations.
11 Specifically, Defendant contends (1) it did not fail to pay the Class the minimum, straight time,
12 regular rate, overtime, and/or vacation wages; (2) it paid the Class for all hours worked; (3) it
13 provided the Class with all meal periods according to law and/or paid meal period premiums; (4) it
14 provided the Class with all rest breaks according to law and/or paid rest break premiums; (5) it did
15 not fail to timely pay the Class wages due and owing during employment and/or upon separation;
16 (6) it provided the Class with accurate itemized wage statements, consistent with Labor Code
17 Section 226; (7) it properly maintained all payroll records; (8) it reimbursed employees for all
18 necessary business expenditures; (9) it did not violate Business & Professions Code Section 17200,
19 *et seq.*; (10) the PAGA Group is not entitled to penalties under PAGA; and (11) Defendant is not
20 liable for damages, including unpaid wages, liquidated damages, statutory penalties, attorneys’ fees,
21 or costs of litigation to the Class.

22 36. In connection with the Actions, and in order to work toward a mediated resolution
23 without the time and expense of formal discovery, the Parties produced voluminous documents and
24 data (including, by Defendant, human resources documents and policies, time records, and payroll
25 data during the Class Period) which were reviewed, investigated, and analyzed by Class Counsel.

26 37. On June 6, 2024, the Parties in Actions participated in a full day of mediation before
27 an experienced employment and class Actions mediator, Lynn Frank, Esq. (the “Mediation”) and
28 the Parties reached a settlement at the Gross Settlement Amount.

1 38. The Settlement described in this Agreement represents a compromise and settlement
2 of highly disputed claims. Nothing in this Settlement is intended or will be construed as an
3 admission by Defendant that Plaintiff's claims in the Actions have any merit or that it has any
4 liability to Plaintiff, the Class, the PAGA Group or the State on those claims, or as an admission by
5 Plaintiff that Defendant's defenses in Actions have any merit. This Settlement is intended to fully,
6 finally, and forever compromise, release, resolve, discharge, and settle the released claims subject to
7 the terms and conditions set forth in this Settlement.

8 39. Based on its own thorough, independent investigation and evaluation of this case,
9 Class Counsel is of the opinion that the Settlement of this Actions with Defendant for the
10 consideration and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the
11 best interest of the Class in light of all known facts and circumstances, including the risk of
12 significant costs and delay, the risk of non-certification of the Class, the defenses asserted by
13 Defendant including the risks of adverse determinations on the merits and numerous potential
14 appellate issues. Although Defendant contends that it has no liability in the Actions, Defense
15 Counsel shares Class Counsel's belief that the Settlement represents a fair and adequate settlement
16 given the respective risks associated with the case.

17 40. Based on the foregoing Recitals, the Parties agree as follows:

18 **III. PROCEDURE FOR APPROVING SETTLEMENT**

19 41. **Motion for Preliminary Approval of Settlement by the Superior Court.** Plaintiff
20 will move the Superior Court for an order granting Preliminary Approval of the Settlement, setting
21 a date for the Final Approval Hearing no earlier than 120 days from the date of the order granting
22 Preliminary Approval of the Settlement, and approving the Class Notice (attached as Exhibit "A" to
23 this Stipulation) ("Motion for Preliminary Approval"). Any unresolved disagreement among the
24 Parties concerning the Class Notice or other documents necessary to implement the Settlement will
25 be referred first to Lynn Frank, Esq., and if no resolution is reached, then to the Superior Court.

26 42. At the hearing on the Motion for Preliminary Approval, the Parties anticipate that
27 they will jointly appear, support the granting of the Motion for Preliminary Approval, and obtain an
28 order granting Preliminary Approval, granting approval of the Class Notice, and setting a date for

1 the Final Approval Hearing no earlier than 120 days from the date of the order granting Preliminary
2 Approval.

3 43. Should the Superior Court require any amendments to this Agreement or the Motion
4 for Preliminary Approval, the Parties agree to work jointly to resolve any issues in order to secure
5 the Superior Court's Preliminary Approval.

6 44. Should the Superior Court decline to preliminarily approve any material aspects of
7 the Settlement, the Settlement will be null and void and the Parties will have no further obligations
8 under it. In such event, the Parties shall be returned to their respective positions as of the date and
9 time immediately prior to the execution of this Agreement, and the Parties shall proceed in all
10 respects as if this Agreement had not been executed.

11 45. **Class Notice.** After the Superior Court enters its order granting Preliminary
12 Approval, every Class Member will be provided with the Class Notice (in English and Spanish)
13 which will include the Class Notice completed to reflect the order granting Preliminary Approval of
14 the Settlement and the Class Member's information as follows:

15 (a) Within twenty-one (21) days after the Motion for Preliminary Approval is
16 granted, Defendant will provide to the Settlement Administrator the "Class Members' Data," which
17 shall consist of an electronic database containing (i) each Class Member's first and last name, (ii)
18 last known mailing address, (iii) the Class Member's Social Security number or Tax ID, (iv) each
19 Class Member's dates of employment, i.e., hire dates, termination dates (as applicable), and re-hire
20 dates (as applicable); (v) the Class Member's number of Individual Workweeks, and (vi) the
21 Class/PAGA Group's number of Individual Pay Periods, as applicable. Defendant shall also deliver
22 to Class Counsel a declaration from Defendant attesting to the Class Members' total number of
23 Individual Workweeks, Class/PAGA Groups' total number of Individual Pay Periods, if applicable,
24 and the method which Defendant utilized to determine these numbers. If any or all of the Class
25 Members' Data are unavailable to Defendant, Defendant will so inform Class Counsel prior to the
26 date on which Defendant are required to submit the Class Members' Data to the Settlement
27 Administrator and the Parties will make their best efforts to reconstruct or otherwise agree upon the
28 Class Members' Data prior to when it must be submitted to the Settlement Administrator. If the

1 Parties are unable to agree, the dispute will be resolved by the Settlement Administrator as provided
2 in Paragraph 48. This information will otherwise remain confidential and will not be disclosed to
3 anyone, except as required to applicable taxing authorities, as required to carry out the reasonable
4 efforts to identify Class Member information as described in Paragraph 45(c), pursuant to
5 Defendant's express written authorization, or by order of the Superior Court.

6 (b) Within seven (7) days after receiving the Class Members' Data, or as soon
7 thereafter as it is able to do so, the Settlement Administrator will mail the Class Notice to all
8 identified Class Members via first-class U.S. Mail using the mailing address information provided
9 by Defendant, unless modified by any updated address information that the Settlement
10 Administrator obtains in the course of administration of the Settlement.

11 (c) If a Class Notice is returned by the U.S. Postal Service because of an
12 incorrect address, the Settlement Administrator will promptly, and not later than five (5) days from
13 receipt of the returned packet, search for a more current address for the Class Member and re-mail
14 the Class Notice to the Class Member. The Settlement Administrator will use the Class Members'
15 Data and otherwise work with Defense Counsel or utilize its own resources such as skip traces to
16 find a more current address. The Settlement Administrator will be responsible for taking reasonable
17 steps, consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing
18 address of any Class Member for whom a Class Notice is returned by the U.S. Postal Service.
19 These reasonable steps shall include the tracking of all undelivered mail; performing address
20 searches for all mail returned without a forwarding address; and promptly re-mailing to Class
21 Members for whom new addresses are found. Any such Class Members who failed to receive a
22 Class Notice, or who were subject to a re-mailing of the Class Notice as described herein shall be
23 given an additional fifteen (15) days to opt out or object to the Settlement.

24 (d) The Settlement Administrator will inform Class Counsel and Defense
25 Counsel of the number of returned Class Notices it receives and Class Notices re-mailed in a
26 weekly status report.

27 (e) Not later than sixteen (16) court days prior to the Final Approval Hearing, the
28 Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its

1 compliance with its obligations under this Settlement. The Settlement Administrator's declaration
2 shall include the total number of Workweeks in the Class Period, as well as the full name(s) of any
3 Class Member who submitted valid Requests for Exclusion(s) or Objection(s) to the Settlement.
4 The declaration will be filed with the papers submitted with the Motion for Final Approval. Prior to
5 the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due
6 diligence if any material changes occur from the date of the filing of its prior declaration.

7 **46. Participating Class Members; Requests for Exclusion from Class Settlement;**
8 **and Objections to Settlement.** Class Members may submit requests to be excluded from the effect
9 of the Settlement; or objections to the Settlement, pursuant to the following procedures:

10 **(a) Participating Class Members.** Each Class Member shall be deemed to be a
11 Participating Class Member unless they submit a complete, timely, and valid request to be excluded
12 from the effect of the Settlement as provided below. All Participating Class Members shall be
13 bound by the provisions and releases contained in this Settlement.

14 **(b) Request for Exclusion from Settlement.** Class Members who wish to
15 exclude themselves from the Settlement ("opt out" of the Settlement) must submit to the Settlement
16 Administrator, not later than forty-five (45) days after the date that the Settlement Administrator
17 first mails the Class Notices, an Exclusion Request ("the Exclusion Period"). Exclusion Requests
18 may be submitted to the Settlement Administrator via U.S. Mail only. Class Members must
19 complete, sign, date, and timely return an Exclusion Request to the Settlement Administrator to
20 exclude themselves from the Settlement, setting forth their (i) name, (ii) address, (iii) last four digits
21 of their Social Security number (or Tax ID), and (iv) the following statement or a similar statement:
22 "I wish to exclude myself from the settlement reached in the matter of *Escorcia v. The Foster*
23 *Printing Company, Inc.* I understand that by excluding myself, I will not receive any money from
24 the Class settlement reached in this matter but may still be eligible for payment under the portion of
25 the settlement allocated under PAGA." A Class Member who does not complete and submit a valid
26 and timely Exclusion Request in the manner and by the conclusion of the Exclusion Period will
27 remain a Participating Class Member and, if the Court approves the Settlement, will be bound by all
28 terms and conditions of the Settlement and by the Judgment. A Class Member who timely submits

1 a valid Exclusion Request will not participate in, or be bound by, the Settlement of the Judgment
2 and will not receive any payment pursuant to the Settlement except for a payment from the portion
3 of the PAGA Payment to the PAGA Group if the Class Member is an Aggrieved Employee, and
4 will not be bound by the terms of the Settlement, except for the release of the PAGA Group
5 Released Claims if the Class Member is an Aggrieved Employee, and will not have any right to
6 object, appeal, or comment thereon. To be valid, Exclusion Requests must be completed in full,
7 signed, and returned to the Settlement Administrator before the expiration of the Exclusion Period.
8 Non-Participating Class Members will not be permitted to file objections to the Settlement and/or
9 appear at the Final Approval Hearing to voice any objections to the Settlement. Members of the
10 PAGA Group cannot seek to exclude themselves from the Settlement of the PAGA claim, but retain
11 all rights to exclude themselves from the Class Settlement as delineated herein. The Settlement
12 Administrator will provide Class Counsel, Defense Counsel, and the Superior Court with only the
13 names of the Non-Participating Class Members.

14 (c) **Objections to Settlement.** The Class Notice will provide that any Class
15 Member who does not request exclusion from the Settlement and who wishes to object to the
16 Settlement must serve on the Settlement Administrator, not later than forty-five (45) days after the
17 Settlement Administrator initially mails the Class Notice, a written objection to the Settlement
18 which sets forth the grounds for the objection and the Class Member's (i) name, (ii) address, (iii)
19 last four digits of their Social Security number (or Tax ID), and (iv) the dates of the Class Member's
20 employment with Defendant. The written objection must state the basis for each objection in clear
21 and concise terms. The written objection shall also state whether the Class Member intends to
22 appear and object at the Final Approval Hearing. A Class Member who does not serve a written
23 objection in the manner and by the deadline specified may appear at the Final Approval Hearing to
24 state their objection to the Settlement. If a Class Member fails to submit a written objection or to
25 appear at the Final Approval hearing to make an oral objection, the Class Member will be deemed
26 to have waived all objections and will be foreclosed from making any objections – whether by
27 appeal or otherwise – to the Settlement.

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1 (d) If a Class Member submits both a Request for Exclusion and a written
2 objection, the objection will be disregarded and it shall be presumed that the Class Member does not
3 wish to participate in the Settlement.

4 (e) If the Superior Court rejects the Class Member's objection, or if the Superior
5 Court approves the settlement despite any objections, the Class Member will be deemed to be a
6 Participating Class Member and will be bound by the terms of this Settlement.

7 (f) A Class Member who timely submits a valid Exclusion Request will not
8 participate in, or be bound by, the Settlement of the Judgment and will not receive any payment
9 pursuant to the Settlement except for a payment from the portion of the PAGA Payment to the
10 PAGA Group if the Class Member is an Aggrieved Employee, and will not be bound by the terms
11 of the Settlement and Judgment, except for the release of the PAGA Group Released Claims if the
12 Class Member is an Aggrieved Employee, and will not have any right to object, appeal, or comment
13 thereon.

14 47. **Report.** Not later than seven (7) days after the deadline for submission of requests
15 to be excluded and/or objections, the Settlement Administrator will provide Defendant, through
16 Defense Counsel, with a complete and accurate list of names for all Participating Class Members,
17 all Non-Participating Class Members, all PAGA Group/Aggrieved Employees, and all Class
18 Members who objected to the settlement. The report shall also be accompanied by an itemized
19 calculation of the Settlement Shares for each Participating Class Member. The Settlement
20 Administrator shall also provide both Parties with a report identifying the number of Participating
21 Class Members, the number of Non-Participating Class Members, the number of PAGA
22 Group/Aggrieved Employees, and the number of Class Members who submitted a valid, timely, and
23 complete objection. Class Counsel shall also receive a list of Class Members who object to the
24 Settlement and a list of all Non-Participating Class Members.

25 48. **Resolution of Class Member and Aggrieved Employee Disputes.** If a Class
26 Member and/or Aggrieved Employee disputes the number of his/her/their Individual Workweeks
27 and/or Individual Pay Periods stated in their Class Notice, the Class Member and/or Aggrieved
28 Employee must, within forty-five (45) days after the Settlement Administrator initially mails the

1 Class Notice, ask the Settlement Administrator to resolve the matter by returning the Class Notice
2 with a statement of the number of Workweeks and/or Pay Periods that he/she/they contends were
3 worked and include any documentation the Class Member and/or Aggrieved Employee has to
4 support their contention. The Settlement Administrator shall notify Defendant of the dispute and
5 provide them with a copy of the Class Notice and any documentation received in support of the
6 dispute within three (3) court days of receipt thereof. Defendant shall review its payroll and
7 personnel records and verify the correct number of Workweeks and/or Pay Periods within five (5)
8 court days of the Settlement Administrator's notification. Defendant's records will have a
9 rebuttable presumption of accuracy. After consultation with Class Counsel, Defense Counsel, and
10 the applicable Class Member and/or Aggrieved Employee, the Settlement Administrator will, within
11 three (3) court days of Defendant's verification, make a determination of the Class Member's and/or
12 Aggrieved Employee's number of Workweeks and/or Pay Periods and that determination will be
13 final, binding on the Parties and the Class Member and/or Aggrieved Employee, and is not
14 appealable.

15 49. **No Solicitation of Objection; Right to Void.** Neither the Parties, nor their
16 respective counsel, will directly or indirectly solicit or otherwise encourage any Class Member to
17 exclude him/her/themselves from the Settlement, object to the Settlement, and/or appeal from the
18 Judgment. If ten percent (10%) or more of the Class Members submit a complete, valid, and timely
19 request to be excluded from the Settlement and are deemed to be Non-Participating Class Members,
20 then Defendant shall have the unilateral right to void this Settlement. Defendant may do so by
21 giving notice to Plaintiff and the Court of its election to void the Settlement not later than fourteen
22 (14) days after the Settlement Administrator issues its report identifying the number of Participating
23 Class Members, the number of Non-Participating Class Members, and the number of Class
24 Members who objected to the settlement as described in Paragraph 46. Notwithstanding any other
25 provisions in this Settlement, no sums shall be payable by Defendant in the event that this
26 Settlement is voided as provided for herein.

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1 **50. Additional Briefing and Final Approval.**

2 (a) Not later than sixteen (16) court days before the Final Approval Hearing, the
3 Plaintiff will prepare and file with the Superior Court a Motion for Final Approval of the
4 Settlement, including payment of the Settlement Administrator's Payment, and a memorandum in
5 support of their motion ("Motion for Final Approval"). Not later than sixteen (16) court days before
6 the Final Approval Hearing, Plaintiff and Class Counsel will serve on Defendant and file with the
7 Superior Court a Motion for Awards of the Class Representative Payment, Class Counsel Fees
8 Payment, and the Class Counsel Litigation Expenses Payment, pursuant to this Settlement, and
9 memoranda in support of its motion. Absent the escalator provisions outlined in Paragraph 60, if
10 applicable, Plaintiff will not seek additional fees from Defendant or an increase in the Gross
11 Settlement Amount as part of the Motion for awards of the Class Representative Payment, Class
12 Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment.

13 (b) Not later than five (5) court days before the Final Approval Hearing, the
14 Parties shall be entitled to file and serve a response to any Class Member's objection to the
15 Settlement and/or reply in support of their Motion for Final Approval, to the extent that any
16 opposition to said Motion is filed. Plaintiff and Class Counsel may file a reply in support of their
17 Motion for Awards of the Class Representative Payment, Class Counsel Fees Payment, and the
18 Class Counsel Litigation Expenses Payment, to the extent that any opposition to said Motion is
19 filed.

20 (c) If the Superior Court ultimately does not grant final approval of the
21 Settlement or grants final approval conditioned on any material change to the Settlement that is not
22 agreed to by one of the Parties, then any Party will have the right to void the Settlement. If the
23 Settlement is voided in this manner, the Parties will have no further obligations under the
24 Settlement, including any obligation by Defendant to pay any amounts that otherwise would have
25 been payable under this Settlement, except that the voiding Party will pay the Settlement
26 Administrator's reasonable fees and expenses incurred as of the date that the Party exercises the
27 right to void the Settlement under this Paragraph. An award by the Superior Court of a lesser
28 amount than that sought by Plaintiff and Class Counsel for the Class Representative Payment, the

1 Class Counsel Fees Payment, and/or the Class Counsel Litigation Expenses Payment, will not
2 constitute a material change to the Settlement within the meaning of this Paragraph.

3 (d) Upon final approval of the Settlement by the Superior Court at or after the
4 Final Approval Hearing, the Parties will present for the Superior Court's approval and entry a
5 Proposed Final Order and Judgment. The entry of the Final Order and Judgment shall permanently
6 bar all Participating Class Members from prosecuting against Defendant any claims or causes of
7 Actions of any kind up through the date of Final Approval, which were or could have been brought
8 in this Actions, whether known or unknown, as well as all claims as set forth in the Release
9 contained in Section V of this Agreement.

10 (e) After entry of the Judgment, the Superior Court will have continuing
11 jurisdiction over the Actions and the Settlement solely for purposes of (i) enforcing this Settlement,
12 (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as
13 may be appropriate under court rules or applicable law.

14 51. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms
15 and conditions of this Settlement, Plaintiff, Participating Class Members, Defendant, and their
16 respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights
17 to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a
18 motion for new trial, a motion under Code of Civil Procedure Section 473, and any extraordinary
19 writ, and the Judgment therefore will become non-appealable by them at the time it is entered. The
20 waiver of appeal does not include any waiver of the right to oppose any appeal, appellate
21 proceedings, or post-judgment proceedings. If an appeal is taken from the Judgment, the time for
22 consummation of the Settlement (including making payments under the Settlement) will be
23 suspended until such time as the appeal is finally resolved and the Judgment, consistent with the
24 terms of this Settlement, becomes Final.

25 52. **Vacating, Reversal, or Material Modification of Judgment on Appeal or**
26 **Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other
27 motion, petition, writ, or application, the reviewing court vacates, reverses, or modifies the
28 Judgment such that there is a material modification to the Settlement, and that court's decision is

1 not completely reversed and the Judgment is not fully affirmed on review by a higher court, then
2 either Party will have the right to void the Settlement, which the Party must do by giving written
3 notice to the other Parties, the reviewing court, and the Superior Court, not later than fourteen (14)
4 days after the reviewing court's decision vacating, reversing, or materially modifying the Judgment
5 becomes final. A vacation, reversal, or modification of the Superior Court's award of the Class
6 Representative Payment, the Class Counsel Fees Payment, and/or Class Counsel Litigation
7 Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment
8 within the meaning of this Paragraph.

9 **53. Establishment of Settlement Account.** The Settlement Administrator shall
10 establish a Settlement Account within ten (10) days of the Effective Date and notify the Parties
11 when the Settlement Account has been established. The Settlement Administrator shall also
12 provide Defendant with an itemized statement for the total amount to be deposited into the
13 Settlement Account, which shall equal the Gross Settlement Amount plus the Employer's Payroll
14 Taxes ("Settlement Account Deposit"). Within ten (10) days after receiving notification of the
15 Settlement Account and statement for the Settlement Account Deposit, Defendant shall pay into the
16 Settlement Account an amount equal to the Settlement Account Deposit. Defendant shall have no
17 obligation to pay any additional funds into the Settlement Account.

18 **54. Payment of Settlement Shares.** The Settlement Administrator shall pay to each
19 Participating Class Member his/her/their Settlement Share from the Settlement Account. The
20 Settlement Administrator shall pay each Settlement Share by sending a check in the appropriate
21 amount after withholdings to the Participating Class Member at the address indicated in the Class
22 Member's Data. Such payment shall be sent by the Settlement Administrator via U.S. Mail within
23 fourteen (14) days of its receipt of the Settlement Account Deposit from Defendant.

24 **55. Payment of PAGA Payment Shares.** The Settlement Administrator shall pay to
25 each Aggrieved Employee his/her/their PAGA Payment Share from the Settlement Account. The
26 Settlement Administrator shall pay each PAGA Payment Share by sending a check in the
27 appropriate amount to the Aggrieved Employee at the address indicated in the Aggrieved
28 Employee's Data. Such payment shall be sent by the Settlement Administrator via U.S. Mail within

1 fourteen (14) days of its receipt of the Settlement Account Deposit from Defendant.

2 **56. Uncashed Settlement Share and PAGA Payment Share Checks.** Any checks
3 paid to Participating Class Members and/or PAGA Group shall be negotiable for one hundred and
4 eighty (180) calendar days from the date of their issuance. A Participating Class Member must cash
5 his/her/their Settlement Share check within one hundred and eighty (180) calendar days after it is
6 mailed to him/her/them. An Aggrieved Employee must cash his/her/their PAGA Payment Share
7 check within one hundred and eighty (180) calendar days after it is mailed to him/her/them. If a
8 check remains uncashed after one hundred and eighty (180) calendar days from the initial mailing,
9 or if a check is returned to the Settlement Administrator as undeliverable during the one hundred
10 eighty-day period, the Settlement Administrator shall take all reasonable efforts to identify the
11 Participating Class Member's and/or Aggrieved Employee's correct address, including the
12 performance of a "skip-trace." If an updated address can be identified, the Settlement
13 Administrator shall issue another check to the Participating Class Member and/or Aggrieved
14 Employee and mail it to the Participating Class Member and/or Aggrieved Employee at his/her/their
15 updated address. If an updated address for the Participating Class Member and/or Aggrieved
16 Employee cannot be identified, if a reissued check is once again returned to the Settlement
17 Administrator as undeliverable, or if the reissued check remains uncashed after one hundred eighty
18 (180) calendar days, the Settlement Administrator will keep an accounting of such funds and shall
19 give notice to the Parties of the total balance of uncashed Settlement Shares and/or PAGA Payment
20 Shares. A Participating Class Member who fails to negotiate or receive their Settlement Share
21 check despite the procedures described above shall nevertheless remain bound by the Settlement
22 and the releases contained herein. An Aggrieved Employee who fails to negotiate or receive their
23 PAGA Payment Share check despite the procedures described above shall nevertheless remain
24 bound by the Settlement and the releases contained herein.

25 **57.** The funds represented by Settlement Share and/or PAGA Payment Share checks
26 remaining uncashed for more than one hundred and eighty (180) calendar days after issuance shall
27 be voided and then shall be transmitted to the Controller of the State of California to be held
28 pursuant to the Unclaimed Property Law, California Civil Code Section 1500, *et seq.*, in the names

1 of those Participating Class Members and/or PAGA Group who did not cash their checks until such
2 time they claim their property. The Parties agree that this disposition results in no “unpaid residue”
3 under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out
4 to Participating Class Members, whether or not they all cash their settlement checks.

5 **58. Final Report by Settlement Administrator to Superior Court.** Within ten (10)
6 days after final disbursement of all funds from the Settlement Account, the Settlement
7 Administrator will serve on the Parties and file with the Superior Court a declaration providing a
8 final summary report on the disbursements of all funds from the Settlement Account. Within ten
9 (10) days after transmission of any remaining unclaimed funds to Controller of the State of
10 California the Settlement Administrator will serve on the Parties and file with the Superior Court a
11 declaration providing a final summary report on the transmission of any remaining unclaimed funds
12 to Controller of the State of California as outlined Paragraph 57.

13 **IV. SETTLEMENT TERMS AND CONDITIONS**

14 **59. Conditional Certification for Settlement Purposes.** Solely for the purposes of
15 effectuating this Settlement, and subject to Court approval, the Parties hereby stipulate to the
16 conditional certification of the following Settlement Class: “all current and former hourly-paid, non-
17 exempt employees of Defendant in California during the Class Period.” The Parties agree that if for
18 any reason the Settlement is not preliminarily and/or finally approved, the conditional certification
19 of the Settlement Class will be of no force or effect, does not constitute an admission by Defendant
20 that class certification is proper, and will not be deemed admissible in this or any other proceeding,
21 and that the Parties will litigate the issue of class certification.

22 **60. Increase in Workweeks.** Defendant represents that as of June 6, 2024, the
23 number of Workweeks worked by the Class Members in the Class Period is approximately
24 6,726. Should the number of Workweeks worked by the Class Members during the Class Period
25 increase by 10% or more (i.e., to more than 7,399 Workweeks), then Defendant shall have the
26 option of either (i) increasing the Net Settlement Amount by an amount determined by the
27 following formula: $[\text{Actual Number of Workweeks} - 7,399] \div 7,399 \times \text{Net Settlement Amount}$;
28 or (ii) changing the end date of the Class Period and PAGA Period to a date for which there are

1 no more than 7,399 Workweeks. Should Defendant elect to change the end date of the Class Period
2 pursuant to option (ii) above, Defendant must notify Plaintiff's counsel in writing within ten (10)
3 business days of receiving sufficient information that the actual number of Eligible Workweeks
4 exceeds 7,399. Untimely notice shall cause Defendant's election to change the end date of the Class
5 Period to have no force or effect.

6 **61. Settlement Shares.** Subject to the terms and conditions of this Settlement, the
7 Settlement Administrator will calculate the Settlement Shares for each Class Member within ten
8 (10) days after Defendant provide the Settlement Administrator with the Class Members' Data. The
9 Settlement Share for each Class Member will be calculated as follows, understanding that the
10 formulas below do not constitute an admission by either Party, and are intended only to provide a
11 practical means to simplify and administer the claims process:

12 **(a) Number of Class Members and Workweeks.** Defendant shall determine
13 the total number of Class Members and the aggregate number of Workweeks for those Class
14 Members as of the time of Preliminary Approval. This information shall be provided to the
15 Settlement Administrator along with the Class Members' Data, and to Class Counsel in the form of
16 a declaration from Defendant, as described in Paragraph 45(a) above.

17 **(b) Calculation of the Workweek Value.** The Settlement Administrator shall
18 determine the value of a Workweek ("Workweek Value") by taking the Net Settlement Amount and
19 dividing it by the sum of all Class Members' Workweeks who do not opt out of the Settlement.

20 **(c) Calculation of Settlement Shares.** The Settlement Administrator shall
21 assign to each Participating Class Member a Settlement Share which shall be equal to the
22 Workweek Value multiplied by each Participating Class Member's Individual Workweeks. Upon
23 calculation of the Participating Class Members' Settlement Shares, the Settlement Administrator
24 shall furnish to Class Counsel and Defense Counsel a worksheet containing a list of employee
25 identification numbers for the Class Members with their corresponding Individual Workweeks and
26 Settlement Shares.

27 **62. PAGA Payment Shares.** Subject to the terms and conditions of this Settlement, the
28 Settlement Administrator will calculate the PAGA Payment Shares for each Aggrieved Employee

1 within ten (10) days after Defendant provide the Settlement Administrator with the PAGA Group'
2 Data. The PAGA Payment Share for each Aggrieved Employee will be calculated as follows,
3 understanding that the formulas below do not constitute an admission by either Party, and are
4 intended only to provide a practical means to simplify and administer the claims process:

5 (a) **Number of PAGA Group and Pay Periods.** Defendant shall determine the
6 total number of PAGA Group and the aggregate number of Pay Periods for those PAGA Group as
7 of the time of Preliminary Approval. This information shall be provided to the Settlement
8 Administrator along with the Class Members' Data, and to Class Counsel in the form of a
9 declaration from Defendant, as described in Paragraph 45(a) above.

10 (b) **Calculation of the Pay Period Value.** The Settlement Administrator shall
11 determine the value of a Pay Period ("Pay Period Value") by taking the PAGA Payment amount
12 and dividing it by the sum of all PAGA Group' Pay Periods.

13 (c) **Calculation of PAGA Payment Shares.** The Settlement Administrator shall
14 assign to each Aggrieved Employee a PAGA Payment Share which shall be equal to the Pay Period
15 Value multiplied by each Aggrieved Employee's Individual Pay Periods. Upon calculation of the
16 PAGA Group' PAGA Payment Shares, the Settlement Administrator shall furnish to Class Counsel
17 and Defense Counsel a worksheet containing a list of employee identification numbers for the
18 PAGA Group with their corresponding Individual Pay Periods and PAGA Payment Shares.

19 63. **Taxes and Withholdings.** Each Settlement Share is intended to settle the Class
20 Members' claims for unpaid wages and penalties. Accordingly, ten percent (10%) of each
21 Settlement Share shall represent unpaid wages and the remaining ninety percent (90%) of each
22 Settlement Share shall represent penalties and interest. The portion of the Settlement Share
23 representing unpaid wages shall be paid to each Participating Class Member subject to any
24 applicable employee-side tax withholdings and deductions, and the Settlement Administrator shall
25 issue an IRS Form W-2 to each Participating Class Member for that amount. The portion of the
26 Settlement Share representing penalties shall be paid to the Participating Class Member in full
27 without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form 1099
28 to each Participating Class Member for that amount. Each Participating Class Member shall be

1 individually responsible for their own share of applicable income tax withholdings and deductions
2 from the Settlement Share attributable to the portion of the settlement for which an IRS Form 1099
3 will be issued. Defendant's payment of the Employer Payroll Tax attributable to the Settlement
4 Share payments constituting wages will be made separately and shall not come from the Gross
5 Settlement Amount. The Parties agree and understand that Defendant has not made any
6 representations regarding the tax obligations or consequences, if any, related to this Settlement. The
7 Parties agree that Defendant and each Participating Class Member are solely responsible for
8 determining the tax consequences of payments made pursuant to this Settlement and for paying
9 taxes, if any, which are determined to be owed by each of them on such payments (including
10 penalties and interest related thereto) by any taxing authority, whether state, local, or federal.

11 64. Each PAGA Payment Share is intended to settle the PAGA Group' claims for civil
12 penalties. Accordingly, one hundred percent (100%) of each PAGA Payment Share shall represent
13 civil penalties. The PAGA Payment Share shall be paid to the Aggrieved Employee in full without
14 deductions or withholdings, and the Settlement Administrator shall issue an IRS Form 1099 to each
15 Aggrieved Employee for that amount, to the extent the Aggrieved Employee's PAGA Payment
16 Share is Six Hundred Dollars and Zero Cents (\$600.00) or more. Each Aggrieved Employee shall
17 be individually responsible for their own share of applicable income tax withholdings and
18 deductions for his/her/their PAGA Payment Share.

19 65. **Total Payment Amount.** In no event will Defendant be required to pay more than
20 the Gross Settlement Amount (which is currently Four Hundred Thousand Dollars and Zero Cents
21 (\$400,000.00), unless increased pursuant to Paragraph 60 above) for distribution to the Plaintiff,
22 Class Counsel, Participating Class Members, PAGA Group, LWDA, Settlement Administrator, or
23 for any other costs or expenses not otherwise enumerated. However, Defendant's payment of the
24 Employer Payroll Tax attributable to the Settlement Share payments constituting wages will be
25 made separately and shall not come from the Gross Settlement Amount.

26 66. **Payments to Plaintiff and Class Counsel and Others.** Subject to the terms and
27 conditions of this Settlement, the Settlement Administrator will make the following payments out of
28 the Gross Settlement Amount as follows:

1 (a) **To Plaintiff:** In addition to their respective Settlement Shares, Plaintiff will
2 apply to the Superior Court for Class Representative Payment in an amount not to exceed Seven
3 Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00). Defendant will not oppose this Class
4 Representative Payment. The Settlement Administrator will pay the Class Representative Payment
5 approved by the Superior Court out of the Gross Settlement Amount. Payroll tax withholding and
6 deductions will not be taken from the Class Representative Payment and an IRS Form 1099 will be
7 issued to Plaintiff for this payment.

8 (b) **To Class Counsel:** Class Counsel will apply to the Superior Court for the
9 Class Counsel Fees Payment in an amount not to exceed thirty-five percent (35%) of the Gross
10 Settlement Amount (currently estimated to be One Hundred and Forty Thousand Dollars and Zero
11 Cents (\$140,000.00)). Class Counsel will also submit to the Superior Court a memorandum of
12 costs for the Class Counsel Litigation Expenses Payment in an amount not to Twenty-Five
13 Thousand Dollars and Zero Cents (\$25,000.00) as request reasonable costs of suit to be paid from
14 the Gross Settlement Amount. Defendant will not oppose these requests. Withholding and
15 deductions will not be taken from the Class Counsel Fees Payment or Class Counsel Litigation
16 Expenses Payment and one or more IRS Forms 1099 will be issued to Class Counsel with respect to
17 those payments. The Settlement Administrator will pay the amounts approved by the Superior Court
18 out of the Gross Settlement Amount. Should the Court approve attorneys' fees and/or litigation
19 costs and expenses in amounts that are less than the amounts provided for herein, then the
20 unapproved portion(s) shall be a part of the Net Settlement Amount.

21 (c) **To the LWDA:** As part of their Motions for Preliminary and Final
22 Approval, the Parties will jointly apply to the Superior Court for approval of the LWDA Payment in
23 the amount of Fifteen Thousand Dollars and Zero Cents (\$15,000.00), which shall constitute the
24 LWDA's seventy-five percent (75%) share of Twenty Thousand Dollars and Zero Cents
25 (\$20,000.00) in civil penalties paid under this Settlement. The remaining Five Thousand Dollars
26 and Zero Cents (\$5,000.00) in civil penalties shall be distributed on a *pro rata* basis based upon the
27 number of pay periods worked by each Aggrieved Employee ("PAGA Payment").

28 ///

1 (a) **To the Settlement Administrator:** The Settlement Administrator will be
2 paid from the Gross Settlement Amount its reasonable fees and expenses as approved by the
3 Superior Court, which are estimated not to exceed Four Thousand Five Hundred Dollars and Zero
4 Cents (\$4,500.00).

5 67. **Appointment of Settlement Administrator.** The Parties will ask the Superior
6 Court to appoint Phoenix Class Actions Administrators, a qualified and experienced administrator
7 based in California where the Actions is venued, to serve as the Settlement Administrator, which, as
8 a condition of appointment, will agree to be bound by this Agreement with respect to the
9 performance of its duties and its compensation. The Settlement Administrator's duties will include
10 (i) calculating Settlement Shares and PAGA Payment Shares; (ii) preparing, printing, and mailing
11 the Class Notice to all Class Members; (iii) using reasonable measures to contact all Class
12 Members, including conducting a National Change of Address search on all Class Members before
13 mailing the Class Notice to each Class Member's address; (iv) re-mailing the Class Notice to the
14 Class Member's new address for those Class Members whose address had changed; (v) setting up a
15 toll-free telephone number to receive calls from Class Members; (vi) receiving requests for
16 exclusion and objections to the Settlement; (vii) providing the Parties with weekly status reports
17 about the delivery of Class Notices and any requests for exclusion and objections; (viii) issuing the
18 checks to effectuate the payments due under the Settlement; (ix) using reasonable measures to
19 deliver issued checks to Participating Class Members, including use of a "skip-trace" for
20 undeliverable checks; and (x) otherwise administering the Settlement pursuant to this Agreement
21 including paying and reporting the employer's share of the payroll taxes to the appropriate taxing
22 agency. The Settlement Administrator will have the final authority to resolve all disputes
23 concerning the calculation of a Participating Class Member's Settlement Share and/or Aggrieved
24 Employee's PAGA Payment Share, subject to the terms set forth in this Agreement. The Settlement
25 Administrator's reasonable fees and expenses are estimated to not exceed Four Thousand Five
26 Hundred Dollars and Zero Cents (\$4,500.00) and will be paid out of the Gross Settlement Amount,
27 as set forth herein, subject to Court approval.

28 ///

1 **V. RELEASE OF CLAIMS**

2 **68. Plaintiff's Released Claims.** As of the date Defendant fully funds the Gross
3 Settlement Amount and Employer's Payroll Taxes, Plaintiff, individually and on behalf of
4 Plaintiff's heirs, executors, administrators, representatives, attorneys, successors and assigns
5 knowingly and voluntarily releases and forever discharges Defendant, including any and all parent
6 corporations, affiliates, subsidiaries, managers, predecessors, insurers, successors and assigns,
7 including but not limited to each of their current and former attorneys officers, directors and agents
8 thereof, both individually and in their business capacities, (collectively, "Plaintiff's Released
9 Parties"), to the fullest extent permitted by law, of and from any and all claims, known and
10 unknown, asserted and unasserted, which Plaintiff has or may have against the Plaintiff's Released
11 Parties as of the date of execution of this Settlement Agreement. Plaintiff is not waiving any rights
12 Plaintiff may have to: (i) Plaintiff's own vested accrued employee benefits under the Defendant's
13 health, welfare or retirement benefits plans, if any, as of the date of execution of this Settlement
14 Agreement; (ii) benefits or rights to seek benefits under applicable workers' compensation (except
15 as to claims under Labor Code §§ 132a and 4553 which are expressly released herein) or
16 unemployment insurance or indemnification statutes; (iii) pursue claims which by law cannot be
17 waived by signing this Settlement Agreement; and (iv) enforce this Settlement Agreement.

18 **69.** To affect a full and complete general release as described above, Plaintiff expressly
19 waives and relinquishes all rights and benefits of § 1542 of the Civil Code of the State of California
20 and does so understanding and acknowledging the significance and consequence of specifically
21 waiving § 1542. Thus, notwithstanding the provisions of § 1542, and to implement a full and
22 complete release and discharge of all parties, Plaintiff expressly acknowledges this Settlement
23 Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know
24 or suspect to exist in Plaintiff's favor at the time of signing this Settlement Agreement, and that this
25 Settlement Agreement contemplates the extinguishment of any such claims. Plaintiff warrants
26 Plaintiff has read this Settlement Agreement, including this waiver of California Civil Code § 1542,
27 and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's
28 choosing about this Settlement Agreement and specifically about the waiver of § 1542, and that

1 Plaintiff understands this Settlement Agreement and the § 1542 waiver, and so Plaintiff freely and
2 knowingly enters into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later
3 may discover facts different from or in addition to those Plaintiff now knows or believes to be true
4 regarding the matters released or described in this Settlement Agreement, and even so Plaintiff
5 agrees that the releases and agreements contained in this Settlement Agreement shall remain
6 effective in all respects notwithstanding any later discovery of any different or additional facts.
7 Plaintiff expressly assume any and all risk of any mistake in connection with the true facts involved
8 in the matters, disputes or controversies released or described in this Settlement Agreement or with
9 regard to any facts now unknown to Plaintiff relating thereto.

10 **70. Participating Class Members Released Claims.** As of the date Defendant fully
11 funds the Gross Settlement Amount and Employer's Payroll Taxes, each Participating Class
12 Member, and without the need to manually sign a release document, shall release the Released
13 Parties from all causes of Actions and claims that were alleged in the Actions or reasonably could
14 have been alleged based on the facts and legal theories contained in the Actions, including all of the
15 following claims for relief: (i) failure to pay all minimum, regular rate, straight time, overtime, and
16 vacation wages due (Cal. Lab. Code §§ 510, 558, 1194, 1194.2, 1197, 1197.1, & 1198); (ii) failure
17 to provide compliant meal periods (Cal. Lab. Code §§ 226.7 & 512); (iii) failure to provide
18 compliant rest breaks (Cal. Lab. Code § 226.7); (iv) failure to timely pay wages during employment
19 (Cal. Lab. Code §§ 204 & 210); (v) failure to provide complete, accurate wage statements (Cal.
20 Lab. Code § 226); (vi) failure to pay wages timely at time of termination or resignation (Cal. Lab.
21 Code §§ 201-203); (vii) failure to reimburse necessary business expenditures (Cal. Lab. Code §§
22 2800 & 2802); (viii) unfair business practices that could have been premised on the claims, causes
23 of Actions or legal theories of relief described above or any of the claims, causes of Actions or legal
24 theories of relief pleaded in the operative complaint (Cal. Bus. & Prof. Code § 17200, *et seq.*); (ix)
25 any claim for costs and attorneys' fees and expenses; and (x) any claim arising from the claims
26 described above under applicable federal, state, local or territorial law as well as applicable
27 regulations and Wage Orders (collectively, the "Class Released Claims"). Participating Class
28 Members who cash their checks are deemed to have waived all Released Claims inclusive of claims

1 under the Fair Labor Standards Act. Participating Class Members who do not cash their checks
2 shall be deemed to waive all Released Claims except for a claim under the Fair Labor Standards
3 Act. Released Claims for Class Members who worked for Defendant in California during the Class
4 Period shall have their claims released during the Class Period.

5 **71. PAGA Group Released Claims.** As of the date Defendant fully funds the Gross
6 Settlement Amount and Employer's Payroll Taxes, and without the need to manually sign a release
7 document, the LWDA and the State of California, by and through Plaintiff as an agent and proxy of
8 the LWDA, shall release the Released Parties from all claims for civil penalties pursuant to PAGA
9 based upon all causes of Actions and claims that were alleged in the Actions or reasonably could
10 have been alleged based on the facts and legal theories contained in the Actions and/or the LWDA
11 Exhaustion Letter including all of the following claims for relief: (i) failure to pay all minimum,
12 regular rate, straight time, overtime, and vacation wages due (Cal. Lab. Code §§ 510, 558, 1194,
13 1194.2, 1197, 1197.1, & 1198); (ii) failure to provide compliant meal periods (Cal. Lab. Code §§
14 226.7 & 512); (iii) failure to provide compliant rest breaks (Cal. Lab. Code § 226.7); (iv) failure to
15 timely pay wages during employment (Cal. Lab. Code §§ 204 & 210); (v) failure to provide
16 complete, accurate wage statements (Cal. Lab. Code § 226); (vi) failure to pay wages timely at time
17 of termination or resignation (Cal. Lab. Code §§ 201-203); (vii) failure to maintain accurate records
18 (Cal. Lab. Code §§ 1174(d) & 1174.5); (viii) failure to reimburse necessary business expenditures
19 (Cal. Lab. Code §§ 2800 & 2802); (ix) all claims under the California Labor Code Private Attorneys
20 General Act of 2004 that could have been premised on the claims, causes of Actions or legal
21 theories described above or any of the claims, causes of Actions or legal theories of relief pleaded in
22 the Actions; (x) any claim for costs and attorneys' fees and expenses; and (xi) any claim arising
23 from the claims described above under applicable federal, state, local or territorial law as well as
24 applicable regulations and Wage Orders (collectively, the "PAGA Released Claims"). PAGA
25 Released Claims for PAGA Group who worked for Defendant in California during the PAGA
26 Period shall have their claims released during the PAGA Period.

27 **72.** Released Parties includes Defendant and its past, present and/or future, direct and/or
28 indirect, officers, directors, members, managers, employees, agents, representatives, attorneys,

1 including but not limited to O'Hagan Meyer, insurers, partners, investors, shareholders,
2 administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors,
3 assigns, and joint venturers.

4 73. In light of the binding nature of a PAGA judgment on non-party employees pursuant
5 to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice,*
6 *Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the definition of a Class Member
7 who exclude themselves from the Settlement shall nonetheless receive a payment for the amount of
8 each such individual's estimated share of the PAGA Payment and shall have released PAGA
9 claims, as outlined in Paragraph 71.

10 74. The Class Released Claims and PAGA Released Claims described in Paragraphs 70
11 and 71 expressly exclude all claims made by a Participating Class Member and/or Aggrieved
12 Employee for vested benefits, wrongful termination, unemployment insurance, disability, social
13 security, workers' compensation, claims while classified as exempt, and claims outside of the Class
14 Period and/or PAGA Period.

15 75. **Class Counsel.** As of the Effective Date, and except as otherwise provided by this
16 Settlement, Class Counsel and any counsel associated with Class Counsel waive any further claims
17 to costs and attorneys' fees and expenses against Defendant or the Released Parties arising from or
18 related to the Actions, including but not limited to claims based on the Labor Code, the Code of
19 Civil Procedure, PAGA, the Fair Labor and Standards Act, the Business and Professions Code, or
20 any other contract, statute or law, and except as otherwise provided herein ("Class Counsel
21 Released Claims").

22 76. **No Effect on Other Benefits.** The payment of Settlement Shares and/or PAGA
23 Payment Shares will not result in any additional employee benefit payments (such as 401(k),
24 vacation, or bonus) and shall not have any effect on the eligibility for, or calculation of, any
25 employee benefit.

26 **VI. DUTIES OF THE PARTIES**

27 77. **Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to
28 accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be

1 limited to, execution of such other documents and the taking of such other Actions as may
2 reasonably be necessary to fulfill the terms of this Settlement unless the Court denies the Settlement
3 with prejudice. The Parties shall use their best efforts, including all efforts contemplated by this
4 Stipulation and any other efforts that may become necessary by court order or otherwise, to
5 effectuate this Stipulation and the terms set forth herein. As soon as practicable after execution of
6 this Stipulation, Class Counsel, with the cooperation of Defendant and Defense Counsel, shall take
7 all necessary and reasonable steps to secure the Court's approval of this Stipulation. The Parties will
8 work together to make any non-material modifications of the Settlement requested by the Court to
9 obtain approval of the Parties' Settlement.

10 **78. Duty to Support and Defend the Class Settlement.** The Parties agree to abide by
11 all of the terms of the Settlement in good faith and to support the Settlement fully and to use their
12 best efforts to defend this Settlement from any legal challenge, whether by appeal or collateral
13 attack.

14 **79. Duties Prior to Court Approval.** Class Counsel shall promptly submit this
15 Stipulation to the Court for preliminary approval and determination by the Court as to its fairness,
16 adequacy, and reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall
17 apply to the Court for the entry of a preliminary order, scheduling a hearing on the question of
18 whether the proposed Class Settlement should be approved as fair, reasonable, and adequate as to
19 the Class Members, approving as to form and content the proposed Class Notice attached hereto as
20 Exhibit "A", respectively, and directing the mailing of the Class Notice to Settlement Class
21 Members.

22 **80. Non-Monetary Relief and Catalyzation of Policy Change.** Although Defendant
23 denies any liability of any kind associated with the claims alleged in the Lawsuit, denies any
24 liability or intentional wrongdoing, Defendant revised and updated their wage and hour policies and
25 practices, including but not limited to their timekeeping policies and procedures and meal period
26 and rest break policies and procedures.

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1 **VII. MISCELLANEOUS TERMS**

2 81. **No Admission of Liability.** Defendant denies that it has engaged in any unlawful
3 activity, has failed to comply with the law in any respect, or has any liability to anyone under the
4 claims asserted in the Actions. This Settlement is entered into solely for the purpose of
5 compromising highly disputed claims. Nothing in this Settlement is intended or will be construed
6 as an admission of liability or wrongdoing by Defendant, an admission by Plaintiff that any of his
7 claims were non-meritorious, or any defense asserted by Defendant was meritorious. This
8 Settlement and the fact that Plaintiff and Defendant were willing to settle the Actions will have no
9 bearing on, and will not be admissible in connection with, any litigation (other than solely in
10 connection with the Settlement).

11 82. The Parties also agree that this release constitutes a resolution of a good faith dispute
12 concerning wages and complies with Labor Code Section 206.5, which reads in part:

13
14 “Execution of release of claim or right on account of wages due.
15 No employer shall require the execution of any release of any
16 claim or right on account of wages due, or to become due, or made,
17 or made as an advance on wages to be earned, unless payment of
18 those wages has been made.”
19

20 83. Whether or not the Judgment becomes Final, neither the Settlement, any document,
21 statement, proceeding or conduct related to the Settlement, nor any reports or accounting of those
22 matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be
23 evidence for any purpose adverse to Defendant or any of the Released Parties, including, but not
24 limited to, evidence of a presumption, concession, indication or admission by any of the Released
25 Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed,
26 referred to or offered in evidence against any of the Released Parties, or any other civil, criminal or
27 administrative Actions or proceeding except for purposes of effectuating this Settlement.

28 ///

1 84. Notwithstanding Paragraph 83 of this Settlement, any and all provisions of this
2 Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce
3 any or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

4 85. **Non-Disparagement.** Plaintiff and Class Counsel agree not to make any untruthful,
5 malicious, disparaging or defamatory statements, allegations, comments or communications,
6 regardless of form (whether written, oral, electronic, including but not limited to Glassdoor, Yelp,
7 or otherwise), regarding the Released Parties. Plaintiff and Class Counsel further agree not to
8 encourage authorize or permit any such statements, allegations, comments or communications to be
9 made by others on their behalf.

10 86. **Integrated Agreement.** After this Settlement is signed and delivered by all Parties
11 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the
12 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,
13 covenants, or inducements have been made to any Party concerning this Settlement or its exhibits
14 other than the representations, warranties, covenants, and inducements expressly stated in this
15 Settlement and its exhibits.

16 87. **Attorney Authorization.** Class Counsel and Defense Counsel warrant and represent
17 that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate Actions
18 required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms,
19 and to execute any other documents required to effectuate the terms of this Settlement. The Parties
20 and their counsel will cooperate with each other and use their best efforts to affect the
21 implementation of the Settlement. In the event the Parties are unable to reach agreement on the
22 form or content of any document needed to implement the Settlement, or on any supplemental
23 provisions that may become necessary to effectuate the terms of this Settlement, the Parties will
24 seek the assistance of mediator Lynn Frank, Esq., and if no resolution is reached the Superior Court,
25 and in all cases all such documents, supplemental provisions and assistance of the court will be
26 consistent with this Settlement.

27 88. **Breach.** Except as specifically provided herein, the Parties hereto will bear
28 responsibility for their own attorneys' fees and costs, taxable or otherwise incurred by them or

1 arising out of the Actions, and will not seek reimbursement thereof from any Party to this
2 Settlement Agreement. In the event that a legal action arises out of this Settlement Agreement or is
3 necessary to enforce any of the terms or provisions of this Settlement Agreement, including if an
4 order of enforcement is necessary to remedy a failure by the Defendant to fund the Settlement, the
5 prevailing Party in the action shall be entitled to recover its reasonable attorneys' fees and costs.

6 89. **Modification of Agreement.** This Agreement, and any and all parts of it, may be
7 amended, modified, changed, or waived only by an express written instrument signed by all Parties,
8 their successors-in-interest, and/or the Parties' respective counsel, as authorized.

9 90. **Settlement Binding on Successors.** This Settlement Agreement will be binding
10 upon, and inure to the benefit of, the successors of each of the Parties.

11 91. **Applicable Law.** All terms and conditions of this Settlement and its exhibits will be
12 governed by and interpreted according to the laws of the State of California, without giving effect to
13 any conflict of law principles or choice of law principles.

14 92. **Cooperation in Drafting.** The Parties have cooperated in the drafting and
15 preparation of this Settlement. This Settlement will not be construed against any Party on the basis
16 that the Party was the drafter or participated in the drafting.

17 93. **Fair Settlement.** The Parties and their respective counsel believe and warrant that
18 this Settlement reflects a fair, reasonable, and adequate settlement of the Actions and have arrived at
19 this Settlement through arms-length negotiations, taking into account all relevant factors, current
20 and potential.

21 94. **Headings.** The descriptive heading of any section or Paragraph of this Settlement is
22 inserted for convenience of reference only and does not constitute a part of this Settlement.

23 95. **Notice.** All notices, demands or other communications given under this Settlement
24 will be in writing and deemed to have been duly given as of the third business day after mailing by
25 U.S. Mail, addressed as follows:

<i>To Class Counsel:</i>	BIBIYAN LAW GROUP, P.C. David D. Bibiyan Vedang J. Patel 1460 Westwood Boulevard
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Los Angeles, CA 90025

To Defendant's Counsel:

Andrea Rosenkranz, Esq.
Matthew C. Sgnilek, Esq.
O'HAGAN MEYER
4695 MacArthur Court, Suite 900
Newport Beach, CA 92660

96. **Execution in Counterparts.** This Settlement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures will be presumptive evidence of execution of the original, which shall be produced on reasonable request. Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

DATED: _____

ARTURO HERNANDEZ ESCORCIA

DATED: 12/5/2024

THE FOSTER PRINTING COMPANY, INC.

By: _____

DocuSigned by:

523A47D47E7944D...

Its: _____

President

DATED: _____

BIBIYAN LAW GROUP, P.C.

By: _____

David D. Bibiyan
Vedang J. Patel

Attorneys for Plaintiff,
ARTURO HERNANDEZ ESCORCIA

Los Angeles, CA 90025

To Defendant's Counsel:

Andrea Rosenkranz, Esq.
Matthew C. Sgnilek, Esq.
O'HAGAN MEYER
4695 MacArthur Court, Suite 900
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DATED: 12/13/2024

ARTURO HERNANDEZ ESCORCIA


Arturo Hernandez (Dec 13, 2024 16:43 PST)

DATED: _____

THE FOSTER PRINTING COMPANY, INC.

By: _____

Its: _____

DATED: December 13, 2024

BIBIYAN LAW GROUP, P.C.

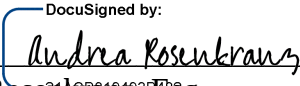
By: Vedang J. Patel
David D. Bibiyan
Vedang J. Patel

Attorneys for Plaintiff,
ARTURO HERNANDEZ ESCORCIA

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DATED: 12/5/2024

O’HAGAN MEYER

By: 
Andrea Rosenkranz, Esq.
Matthew C. Sgnilek, Esq.

Attorneys for Defendant
THE FOSTER PRINTING COMPANY, INC.