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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

HEATHER-ANN MONTERO, as an
individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

BISCO INDUSTRIES, INC., an Illinois
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 23STCV00918

*[Case Assigned for all purposes to the Hon.
William F. Highberger; Dept. SSC-10]*

**DECLARATION OF FLETCHER W.
SCHMIDT IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: December 23, 2024
Time: 9:00 a.m.
Dept.: SSC-10

Action Filed: January 13, 2023
Trial Date: None Set

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I, Fletcher W. Schmidt, declare as follows:

1. I am a Partner at the Haines Law Group, APC, and counsel for named Plaintiff Heather-Ann Sisson (née Montero) (“Plaintiff”) in the above-captioned matter. I am a member in good standing of the bar of the State of California and am admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. I am a 2012 graduate of Loyola Law School, Los Angeles, where I graduated *cum laude* and was awarded membership in the Order of the Coif. From August 2013 to March 2016, I worked as an associate attorney at Boren, Osher & Luftman LLP. Since March 2016 I have worked at my current firm, Haines Law Group, APC, where, in 2018, I became a Partner.

3. During my time with Boren, Osher & Luftman LLP and Haines Law Group, APC, my practice has been solely devoted to litigating plaintiff-side wage and hour class actions in California state and federal court. I am currently responsible for managing a caseload of over seventy-five (75) active wage and hour class actions in which I am integrally involved in all aspects of the litigation.

4. I have been appointed as Class Counsel following a contested motion to certify one or more classes in the following cases:

- *Medeiros v. Vortex Financial Management Inc.*, Case No. 30-2013-00644741-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge Gail A. Andler presiding (certifying a class of employees who were misclassified as independent contractors);
- *Javine v. San Luis Ambulance Service, Inc.*, Case No. CV13-07480 BRO (SSx), United States District Court, Central District of California, Honorable Judge Beverly Reid O’Connell presiding (conditionally certifying an unpaid FLSA overtime wage class);
- *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United States District Court, Central District of California, Honorable Judge John F. Walter presiding

(certifying a rest period violation class and conditionally certifying a FLSA unpaid overtime wage class);

- *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, United States District Court, Northern District of California, Honorable Judge Haywood S. Gilliam, Jr. presiding (conditionally certifying an unpaid FLSA overtime wage class);
- *Vega v. Weatherford U.S., Limited Partnership*, Case No. CV14-1790-JLT, United States District Court, Eastern District of California, Honorable Judge Jennifer L. Thurston presiding (conditionally certifying an unpaid FLSA overtime wage class);
- *Galvan v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge William Claster presiding (certifying unpaid overtime wage class and waiting time penalty class);
- *Camacho v. Residential Fire Systems, Inc.*, Case No. 30-2015-00775372-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge Glenda Sanders presiding (certifying five separate classes for claims for unpaid wages, unreimbursed expenses, failure to authorize and permit rest periods, and derivative claims);
- *Ontiveros v. Safelite Fulfillment, Inc., et al*, Case No. CV 15-7118-DMG (RAOx), United States District Court, Central District of California, Honorable Dolly M. Gee presiding (certifying six classes of employees for rest period violations, wage statement violations, meal period violations, and overtime and double-time violations);
- *Staublein v. Wells Fargo Bank, National Association*, Case No. CIVDS1712267, San Bernardino Superior Court, Honorable David Cohn presiding (certifying a wage statement class);
- *Danica N. Keich, et al. v. U.S. Healthworks, Inc., et al.*, Case No. 37-2017-00015343-CU-OE-CTL, San Diego County Superior Court, Honorable Eddie C. Sturgeon, presiding (certifying classes for rest period violations, meal period violations, on-call pay violations, wage statement violations, and waiting time violations);
- *George Gomez v. The Bedrock Company*, Case No. CIVDS1824255, San Bernardino County Superior Court, Honorable David Cohn, presiding (certifying claims for unpaid

overtime and minimum wage violations, meal period violations, rest period violations, wage statement violations, and waiting time penalties); and

- *Aurora Gatica v. Valley Ag, Inc. et al.*, Case No. 19CECG03018, Fresno County Superior Court, Honorable Tyler D. Tharpe, presiding (certifying claims for meal period violations, rest period violations, wage statement violations, and waiting time penalties).

5. I have also been appointed as Class Counsel in well over 100 different class action settlements in California state and federal courts, and have recovered in excess of \$150 million dollars through settlements in which I personally have acted as the lead attorney for the plaintiff.

6. I have been awarded attorney's fees following a lodestar cross-check based on a rate of \$750 per hour in the following cases:

- *Arcos v. Panoramic Doors, LLC*, Case No. 37-2021-00048823-CU-OE-CTL, San Diego County Superior Court, Honorable Loren G. Freestone, presiding (using an hourly rate of \$750 for work performed in 2021-2023);
- *Ramirez v. Wyndham Vacation Ownership, Inc.*, Case No. 20CV01715, Santa Barbara County Superior Court, Honorable James F. Rigali, presiding (using an hourly rate of \$750 for work performed from 2020-2024);
- *Hallum, et al. v. FCA US, LLC*, Case No. CIVDS1936782, San Bernardino County Superior Court, Honorable Joseph T. Ortiz, presiding (using an hourly rate of \$750 for work performed in 2021-2024);
- *Perez v. Kyocera SGS Precision Tools, Inc.*, Case No. 30-2022-01299232-CU-OE-CXC, Orange County Superior Court, Honorable Randall J. Sherman, presiding (using an hourly rate of \$750 for work performed in 2022-2024); and
- *Murphy v. Fusion Learning, Inc.*, Case No. 2:21-cv-06732-JAK (ASx), United States District Court for the Central District of California, Honorable John A. Kronstadt, presiding (approving an hourly rate of \$750 for work performed in 2022-2024).

7. In March 2023, I served as trial counsel for the plaintiff and the aggrieved employees in the matter of *Abraham Taduran v. James R. Glidewell, Dental Ceramics, Inc. dba Glidewell Laboratories*, Case No. 30-2017-00934037-CU-OE-CXC, Orange County Superior

1 Court, Honorable William Claster presiding, which was a case brought under the Private
2 Attorneys General Act, Labor Code §§ 2698 *et seq.*, that resulted in a six-figure verdict in favor
3 of the aggrieved employees. I was also approved at an hourly rate of \$750 for work performed
4 from 2017-2024.

5 8. In each year from 2018 through 2024, Thomson Reuters and Los Angeles
6 Magazine recognized me as a Top Young Attorney in Southern California in the annual Rising
7 Star Edition of Super Lawyers. This is an honor awarded to no more than two-and-a-half percent
8 (2.5%) of attorneys under the age of forty in Southern California each year.

9 9. As counsel for Plaintiff, I have been closely involved in all aspects of this litigation
10 since its inception, and believe that the proposed Class Action and PAGA Settlement Agreement
11 (“Settlement Agreement” or “Settlement”) is a fair and reasonable result for the participating
12 Settlement Class members. Attached hereto as **Exhibit A** is a true and correct copy of the Parties’
13 Settlement Agreement. Attached hereto as **Exhibit B** is a true and correct copy of the Notice of
14 Class Action and PAGA Settlement (“Class Notice”).

15 10. Defendant Bisco Industries, Inc. (“Defendant”), is a supplier and distributor of
16 fasteners, hardware, and electronic components for aerospace, communication, and military
17 applications, among others. Defendant employed Plaintiff from approximately July 2018 to May
18 2022, initially as a “Sales Management Trainee” and later as an “L3 Salesperson,” at Defendant’s
19 Anaheim, California location. Plaintiff, like all Settlement Class members, was effectively treated
20 as an exempt employee with no overtime pay and no bona fide timekeeping system.

21 11. On January 13, 2023, Plaintiff filed the initial class action complaint in this action,
22 alleging Defendant failed to: (i) pay all overtime wages owed; (ii) provide all lawful meal periods;
23 (iii) provide all lawful rest periods; (iv) reimburse necessary business expenses; (v) issue accurate
24 itemized wage statements; (vi) timely pay all final wages upon separation; and (vii) comply with
25 California’s Unfair Competition laws. On March 20, 2023, after exhausting her administrative
26 remedies with the LWDA, Plaintiff filed the operative FAC to add a cause of action for civil
27 penalties under the PAGA, based on the same underlying Labor Code violations. Attached hereto
28

as **Exhibit C** are true and correct copies of Plaintiff's January 13, 2023, PAGA Notice letter, Plaintiff's LWDA submission page, and the LWDA's confirmation of receipt.

12. Prior to mediation and unbeknownst to Plaintiff, in approximately February 2024 Defendant began extending individual settlement offers to substantially all Settlement Class Members, offering a live check for \$500 to each employee along with a release of liability that would become effective upon cashing of the check. However, shortly after this process began, Plaintiff (who was a former employee at the time) was personally informed of the *Pick-Up-Stix* campaign and immediately alerted her counsel to the ongoing process. Over the subsequent weeks, due in large part to the personal connections that Plaintiff had with her former co-workers and their word-of-mouth organization efforts, Plaintiff's counsel was contacted by approximately 40 employees, the majority of whom expressed their solidarity with the lawsuit and their willingness to help in any way possible. It was during this process that Plaintiff's counsel discovered that the core issue in the lawsuit (misclassification of non-exempt employees as exempt employees) was not limited to sales employees as Plaintiff originally believed, but in fact extended to *all* of Defendant's employees including those in the warehouse, supply-chain, human resources, and accounting departments.

13. Concurrently with the *Pick-Up-Stix* campaign, Defendant was also seeking to enter into arbitration agreements with all of its employees by providing each employee a separate live check for \$200 that stated that the cashing of the check would be treated as acceptance of the terms of the arbitration agreement. However, no employees are being excluded from the Settlement Class on the basis of any arbitration agreements.

14. Based on information provided by Defendant, a total of 307 employees (referred to herein as the *Pick-Up-Stix* Class members") ultimately cashed their checks, which could have potentially resulted in the *Pick-Up-Stix* Class members being excluded from any potential certified class in the future if this matter had not been resolved. Defendant represents that it paid a total of \$153,500 through this process to the *Pick-Up-Stix* Class Members, but, as described below in further detail, the parties agreed to include all employees, regardless of whether they did or did not cash the *Pick-Up-Stix* check, in the proposed Settlement and will treat the \$153,500 as a pre-

1 payment towards the Gross Settlement Amount.. This amount does **not** include any of the amounts
2 paid in connection with the purported arbitration agreements, which are not being credited towards
3 to Gross Settlement Amount.

4 15. Plaintiff asserts that Defendant failed to maintain accurate records of the hours
5 actually worked by Settlement Class members, resulting in unpaid overtime wages. Specifically,
6 throughout the Class Period, Defendant treated all of its employees as though they were exempt
7 employees, despite the fact that few, if any, actually qualified for any recognized exemptions under
8 the Labor Code or applicable Wage Order. Defendant explicitly instructed its employees to self-
9 report eight hours worked per day, regardless of their actual hours worked, and Plaintiff's expert
10 confirmed that the payroll data showed no evidence of any overtime wages ever having been paid
11 at all. Based on Plaintiff's counsel's conversations with approximately 40 employees who worked
12 in various departments, positions, and locations during the class period, Plaintiff believes that there
13 were a significant amount of overtime hours worked which could be proven through evidence such
14 as records from the "Anita" software platform used by substantially all Settlement Class members,
15 facility entrance records, e-mail records, and security camera footage, given that Defendant did
16 not maintain any bona fide timekeeping records.

17 16. In response, Defendant argues that certain employees may have qualified for certain
18 exemptions, such as the administrative exemption, or the inside sales exemption. Furthermore,
19 Defendant argues that overtime hours were not required, and that many employees worked little,
20 if any, overtime hours, such that even assuming Plaintiff's overtime claim was certified, the
21 damages would fall significantly short of Plaintiff's projections. Defendant would also have the
22 ability to rely on the arbitration agreements and/or *Pick-Up-Stix* releases, which applied to 71%
23 and 38% of current and former employees, respectively, and covered approximately 55% of all
24 workweeks, to dramatically shrink the size of any potential class in the event that the matter
25 proceeded through litigation.

26 17. Plaintiff further asserts that Defendant failed to provide the Settlement Class
27 members with all timely duty-free, uninterrupted 30-minute meal periods to which they were
28

entitled, and maintained no records of employee meal periods. Based on Plaintiff's counsel's conversations with the Settlement Class members, Plaintiff acknowledges that Bisco did maintain a policy of providing an hour-long meal period each shift, that typically took place from 12:00 p.m. to 1:00 p.m. However, this policy was not in writing (Defendant maintained no employee handbook or other relevant written employment policies) and numerous sales employees stated that generally one member from each sales team would stay behind to cover the phones and would take their meal period from 1:00 p.m. to 2:00 p.m., meaning that the meal period for those employees would be late on any day that they began work prior to 8:00 a.m., which was not out of the ordinary. Similarly, warehouse employees reported needing to arrive early on certain occasions which resulted in their regularly scheduled meal periods occurring after the end of the fifth hour of work. Additionally, many employees were given certain work quotas by their managers, which could lead to an environment where employees felt pressured to work through or interrupt their meal periods to conduct work activities.

18. In response, Defendant contends that it provided all employees with an hour-long meal period that was informally scheduled at the four-hour mark or earlier and allowed employees leeway and discretion on when to take their meal, such that decisions to delay or interrupt their meal period were not done at the direction of Defendant. Defendant contends that Plaintiff's meal period claim is not suited for class certification as individual inquiries would be required to assess whether employees voluntarily chose to arrive early or work through meal periods, which could be dependent on their location, job title, and manager, resulting in an unmanageable series of mini-trials. Even if the meal period claim was certified, Defendants contend that the damages would not be as high as Plaintiff projected given that compliant meal periods were provided for almost all shifts, and late or missed meal periods were the exception. Defendant also intended to enforce the arbitration agreements and *Pick-Up-Stix* releases to limit the scope of any class if the matter proceeded through litigation.

19. Plaintiff further alleges that Defendant failed to authorize and permit the Settlement Class members to take all lawful rest periods to which they were entitled. Based on Plaintiff's conversations with Settlement Class members, Plaintiff acknowledges that Defendant had an

informal policy of authorizing two 15-minute rest periods per shift, in the morning and afternoon, but contends that this policy was not clearly communicated to all employees and that rest periods would be the first thing to go when employees became busy with work demands. Some employees reported that they felt that they could not take any rest periods whenever their manager was on-site, or that their team maintained a culture of skipping rest periods.

20. In defense, Defendant maintains that it authorizes all employees to take two 15-minute rest periods during each shift, and allows employees complete freedom and discretion to choose when to take their rest periods and never required any employees to return to work if they indicated that they were taking their rest period. Defendant also asserts that this claim is unmanageable and not suited for class certification, as it requires individualized inquiries into whether an employee's manager placed any explicit or implicit pressure on the employee to skip rest periods, and that, similar to the meal period claim, formal discovery and depositions would prove that most employees suffered few, if any, rest period violations. Defendant also intended to enforce the arbitration agreements and *Pick-Up-Stix* releases to limit the scope of any class if the matter proceeded through litigation.

21. Plaintiff alleges that Defendant required Plaintiff and other Settlement Class members to use their personal cell phones to receive calls from clients and finalize sales but failed to reimburse the Settlement Class members for these necessary business expenses in violation of Labor Code § 2802. Moreover, during a portion of the relevant time period, Defendant required Plaintiff and other Settlement Class members to work from home and use their home computers and internet to conduct essential company business without compensating Plaintiff and other Settlement Class members for any portion of these expenses.

22. In response, Defendant argues that it maintains a policy to reimburse all reasonable and necessary business expenditures and that, to the extent that any expenses were not reimbursed, they were not reasonably incurred. Defendant maintains that at all times during the relevant time period, it provided all necessary telephones and computers and that the decision to work from home was always optional, and that to the extent an employee chose to work from home for their own convenience, any expenses incurred were not "necessary." This claim faces similar obstacles

1 towards certification as Plaintiff's other claims, particularly that it would require a series of mini-
2 trials to determine which employees were actually required to use their cell phone or internet for
3 business purposes and in which pay periods such expenses were allegedly incurred. Defendant
4 also intended to enforce the arbitration agreements and *Pick-Up-Stix* releases to limit the scope of
5 any class if the matter proceeded through litigation.

6 23. As a result of Defendant's alleged failure to pay all overtime wages and meal and
7 rest period premiums, Plaintiff asserts that Defendant also failed to maintain accurate payroll
8 records, timely pay all wages during employment, issue accurate and itemized wage statements,
9 and failed to timely pay all final wages at the time of separation. As a result of these alleged Labor
10 Code violations, Plaintiff also seeks PAGA civil penalties on behalf of all aggrieved employees,
11 which Plaintiff maintains would not be impacted by any arbitration agreements and/or *Pick-Up-*
12 *Stix* releases.

13 24. In response, Defendant argues that Plaintiff would be unable to prove any Labor
14 Code violations in many pay periods, or for certain employees, and that it would be able to use the
15 arbitration agreements and/or *Pick-Up-Stix* releases to preclude wage statement and waiting time
16 penalties such that these penalties would not be recoverable in all pay periods or for all employees.
17 Defendant also argues that to the extent it prevailed in showing minimal or lesser damages at trial,
18 the PAGA penalties would similarly be reduced so as not to be "unjust, arbitrary and oppressive,
19 or confiscatory."

20 25. Defendant voluntarily provided Plaintiff with payroll records for substantially all
21 putative class members spanning the putative class period through February 2024, along with all
22 relevant data points including a breakdown of employees and workweeks by position, and by
23 whether the employee had entered into an arbitration agreement and/or release. Plaintiff's counsel
24 also communicated with approximately 40 putative class members who spanned all locations and
25 departments. Plaintiff then retained an expert with a Ph.D. in labor economics to analyze the data
26 and create a class-wide exposure model for the claims at issue, based in part on estimates derived
27 from the extensive conversations with putative class members given the lack of timekeeping
28 records. On April 5, 2024, after extensive legal research and analysis, the Parties participated in a

1 mediation session with Eve Wagner, Esq., an experienced and respected wage and hour mediator,
2 who assisted the Parties in reaching a tentative settlement agreement. Over the following months,
3 the Parties negotiated and executed the long-form Settlement Agreement that is now before this
4 Court for preliminary approval.

5 26. If the Court preliminarily approves this settlement, Defendant will pay a Gross
6 Settlement Amount (“GSA”) of \$7,500,000.00. This will include \$7,346,500.00 in “new money,”
7 in addition to the \$153,000.00 that has already been paid to the Settlement Class members through
8 the *Pick-Up-Stix* process. This Settlement is non-reversionary, and Settlement Class members will
9 automatically receive their Individual Settlement Payments unless they affirmatively opt-out.

10 27. According to Defendant’s records, there are approximately 475 putative Settlement
11 Class members. Based on the estimated Net Settlement Amount (“NSA”), average Individual
12 Settlement Payments are projected to be approximately \$9,984.21.

13 28. At the time of seeking final settlement approval, Plaintiff will apply for Class
14 Representative Enhancement Payment in the amount of \$10,000 for her service to the Settlement
15 Class and general release of all claims. Plaintiff’s requested class representative Enhancement
16 Payment is intended to recognize the significant time and effort that Plaintiff expended on behalf
17 of the Settlement Class, including acting quickly to alert her counsel of the ongoing *Pick-Up-Stix*
18 process, and spending substantial time communicating with other employees about their rights and
19 options in the lawsuit. Plaintiff’s efforts were instrumental in facilitating communication between
20 her counsel and approximately 40 Settlement Class members, which not only blunted the effects
21 of the *Pick-Up-Stix* campaign, but also placed Plaintiff’s counsel in an advantageous situation at
22 mediation. Furthermore, it was as a direct result of these efforts that Plaintiff’s counsel discovered
23 that the misclassification issues extended to all employees including the warehouse and supply
24 chain departments, beyond the sales employees that the case was initially focused on. Plaintiff has
25 also undertaken significant reputational risks by serving as the named plaintiff, and has agreed to
26 a general release of all claims subject to a waiver of Civil Code § 1542.

27 29. Class Counsel will also apply for an attorneys’ fee award of up to one third of the
28 GSA (currently estimated at \$2,500,000.00), and up to \$50,000.00 in reimbursement for actual

1 litigation costs. Plaintiff submits that the requested fee is fair compensation for undertaking
2 complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Class
3 Counsel has incurred substantial attorneys' fees conducting pre-filing investigation, conducting
4 legal research and analysis, interviewing approximately 40 employees, reviewing and evaluating
5 the payroll records with the assistance of a retained expert to build a comprehensive damages
6 model, preparing for and attending mediation, negotiating and drafting the Memorandum of
7 Understanding, long-form Settlement Agreement, and Notice Packet documents, preparing this
8 motion for preliminary approval, and otherwise litigating the case. Class Counsel will also expend
9 future attorney time attending the hearing on this Motion, overseeing the Notice process, drafting
10 the Final Approval Motion and supporting documents, attending the Final Approval hearing, and
11 completing other tasks, such as fielding questions from Settlement Class members.

12 30. Class Counsel carefully vetted the claims at issue, reviewed Settlement Class
13 member payroll data spanning substantially the entire Class Period, interviewed approximately 40
14 employees, and created a comprehensive damages model for Defendant's liability.

15 31. The Parties engaged only in voluntary information exchange prior to mediation.
16 Should preliminary approval be denied, the Parties would need to proceed to formal discovery,
17 including taking corporate witness depositions and depositions of numerous putative class
18 members, which had not yet commenced at the time the Parties reached the Settlement. Absent
19 settlement, the Parties will likely engage in motion practice related to the enforceability of the
20 *Pick-Up-Stix* releases and arbitration agreements before conducting formal written and deposition
21 discovery. Moreover, Plaintiff has not yet filed for class certification, and thus, absent settlement,
22 the Parties would face the prospect of appeals in the wake of a disputed class certification ruling
23 and/or an adverse summary judgment ruling. Even if Plaintiff succeeded in certifying one or more
24 classes, the Parties would incur considerably more attorneys' fees and costs through a possible
25 decertification motion, trial, and possible appeal.

26 32. At the time of the proposed Settlement, Plaintiff had not filed her motion for class
27 certification. Had the Court certified any claims, Plaintiff anticipated that Defendant would seek
28 decertification. Defendant also contends that, with a substantial number of putative class members

1 having signed *Pick-Up-Stix* agreements, Plaintiff faced serious risks of inability to maintain the
2 numerosity required to proceed as a class action, or a significant reduction in the size of the putative
3 class for a fraction of what Settlement Class members are receiving through this Settlement.
4 Therefore, absent the Settlement, there was a serious risk that Plaintiff would be unable to move
5 forward on a class-wide basis.

6 33. Settlement Class members worked an aggregate total of 50,277 weeks during the
7 relevant time period, throughout which Defendant paid no overtime wages and maintained no bona
8 fide timekeeping records. Given the lack of records, Plaintiff was forced to rely on anecdotal
9 evidence from approximately 40 Settlement Class members, who spanned all departments and
10 locations at issue, to estimate the realistic amount of overtime hours actually worked. Based on
11 Plaintiff's interviews, it was near-universal that all employees worked some amount of overtime
12 hours during the relevant time period, but this ranged from minutes on the low end to five to ten
13 hours per week on the high end, with most employees attesting that overtime hours would come
14 in waves when work demands peaked, with far fewer or no overtime hours during slower periods.
15 Plaintiff also recognized that there was a risk of skewed anecdotal evidence due to employees who
16 had been forced to work more overtime hours without compensation being more likely to leave
17 the company feeling disgruntled and cooperate with Plaintiff's counsel. Based upon her
18 investigation, Plaintiff estimates that a fair average across all workweeks would be approximately
19 2.5 overtime hours per week. Accordingly, Plaintiff calculated Defendant's estimated potential
20 exposure at approximately \$6,869,095 (50,277 workweeks * 2.5 hours per week * \$54.65 average
21 overtime rate of pay).

22 34. Defendant, however, maintains that some of these workweeks could be properly
23 categorized as exempt under either the administrative exemption or the inside sales exemption.
24 Additionally, approximately 28,000 of these workweeks (approximately 56%) were subject to
25 *Pick-Up-Stix* releases. Therefore, applying only a 50% discount on the merits to account for the
26 enforceability of the *Pick-Up-Stix* releases and **no discounts** for a risk of non-certification,
27 Plaintiff estimated a reasonable exposure of \$3,434,548.

35. Based on Plaintiff's conversations with approximately 40 employees, Plaintiff found that in almost all cases, employees confirmed the existence of an hour-long meal period during each shift. However, some employees reported that they felt pressured to skip the meal period under certain circumstances, with varying degrees of employer coercion, while others reported full autonomy to take their meal period as they saw fit. Additionally, numerous employees corroborated Plaintiff's account of at least one employee on each team needing to delay their meal period to cover the phones while the rest of the team took their meal, which could sometimes, but not always, result in a late meal period. Based on all the available evidence, Plaintiff predicted that she would be able to prove an approximate 25% violation rate across all workweeks. Accordingly, Plaintiff calculated Defendant's liability on this claim at \$2,289,489 (50,277 workweeks * 1.25 violations per week * \$36.43 average premium).

36. Defendant asserts, however, that it always maintained lawful meal period policies/practices (including providing a full hour, rather than only 30 minutes) and never prevented an employee from taking a duty-free meal period. Defendant maintains that it was not legally required to maintain a written meal period policy, and the absence of a common written policy posed an obstacle to class certification since individual meal period experiences were highly dependent on the employee's direct supervisor and team, which was somewhat corroborated by Plaintiff's investigation. Additionally, approximately 56% of workweeks were subject to *Pick-Up-Stix* releases. Given these defenses, Plaintiff discounted the maximum exposure by 15% for the risk of non-certification, and by an additional 50% in light of the *Pick-Up-Stix* releases, to arrive at a projected exposure of \$973,033.

37. Based on Plaintiff's conversations with approximately 40 employees, Plaintiff found that most employees acknowledged an awareness of one 15-minute rest period in the morning and one 15-minute rest period in the afternoon. However, Plaintiff found that there was a greater variance in employee experiences with respect to rest periods than there was with meal periods, with some employees stating that they were only vaguely aware of rest periods but did not experience them in practice, and others attesting that they always took their rest periods and that they were free to take longer rest periods and never faced any consequences for doing so.

1 Many employees were somewhere in between and attested that they were free to take rest periods
2 but when they became busy, rest periods became an afterthought due to their focus being on
3 helping their team meet its quotas. Based on all of this evidence, Plaintiff predicted that at best,
4 she would be able to prove an approximate 50% violation rate for rest periods across all
5 workweeks. Accordingly, Plaintiff calculated Defendant's maximum potential exposure on this
6 claim at \$4,578,978 (50,277 workweeks * 2.5 violations per week * \$36.43 average premium).

7 38. However, as with meal periods, Defendant argues that it always authorized and
8 permitted the Settlement Class members to take two 15-minute rest periods each shift (longer than
9 required by law), and never prevented or impeded any employees from doing so. Defendant argues
10 that the absence of a common written policy posed an obstacle to class certification since
11 individual rest period experiences would also be highly dependent on the employee's direct
12 supervisor and team, which was corroborated by Plaintiff's investigation. Additionally,
13 approximately 56% of workweeks were subject to *Pick-Up-Stix* releases. Given these defenses,
14 Plaintiff discounted the maximum exposure by 50% for the risk of non-certification, and by an
15 additional 75% in light of the *Pick-Up-Stix* releases and to account for the possibility that some of
16 the alleged violations could be found to be the result of employee choice, to arrive at a projected
17 exposure of \$572,372.

18 39. Based on her conversations with approximately 40 employees, Plaintiff concluded
19 that it was common for employees to report using their cell phones for work purposes, but that in
20 some cases it appeared that employees chose to do so for their own convenience. Employees also
21 reported that they were required to work from home for at least a portion of 2020 during the
22 COVID-19 pandemic, which required them to use their own home computer and internet
23 connection. However, the exact duration of the period for which employees worked from home
24 varied based on location, and some employees stated that they were aware that it would have been
25 possible for them to continue to work in-office if they preferred to. It was also unclear whether
26 Defendant would have reimbursed employees for these expenses if any reimbursement had been
27 requested, as there was no evidence of any requests having been made. Based on all of this
28 investigation, Plaintiff estimates that under a best-case scenario, she would be able to prove an

1 overall average of approximately \$50 per month on cell phone and internet expenses that could be
2 attributable to work purposes. Therefore, Plaintiff calculated Defendant's maximum potential
3 exposure on this claim at \$580,000 (11,600 work-months (equivalent to 50,277 workweeks) * \$50
4 per month).

5 40. However, Defendant contends that any personal expenses incurred for cell phone
6 or internet expenses were purely for the convenience of the employees and were not required by
7 Defendant, given that all employees had access to computers and phones at Defendant's offices.
8 Furthermore, Defendant argues that it would likely have granted any reasonable requests for
9 reimbursement if they had been submitted, and that it maintains a policy to reimburse all
10 reasonable and necessary business expenditures. Defendant argues that at best, Plaintiff's claim
11 would be limited to the period of the state-wide stay at home order in 2020, and that class
12 certification would be unlikely for any other period of time. Lastly, the *Pick-Up-Stix* releases could
13 be used to extinguish approximately 56% of the liability. Based on all of this evidence, Plaintiff
14 discounted the maximum potential exposure by 80% for the risk of non-certification or
15 certification of a limited time period, and 50% for the risk of being unsuccessful on the merits, to
16 arrive at an estimated exposure of \$58,000.

17 41. According to Plaintiff's expert's data analysis, there are approximately 343
18 Settlement Class members who are eligible for wage statement penalties, and received a total of
19 23,553 wage statements during the 1-year statute of limitations period for wage statement
20 penalties. Since statutory wage statement penalties are capped at \$4,000 per employee, Plaintiff
21 calculated Defendant's maximum possible wage statement exposure as approximately \$1,372,000.
22 Assuming a 100% likelihood of class certification and applying only a 50% discount on the merits
23 to account for the *Pick-Up-Stix* releases, Plaintiff estimated the wage statement exposure at
24 approximately \$686,000.

25 42. Plaintiff's expert's data analysis determined that 189 Settlement Class members
26 separated their employment during the 3-year statute of limitations period for waiting time
27 penalties. Therefore, Plaintiff calculated Defendant's maximum potential exposure on this claim
28 at \$1,652,427 (189 former employees * average waiting time penalty of \$8,743 (\$36.43 hourly

rate * 8 hours * 30 days)). Assuming a 100% likelihood of class certification and applying only a 50% discount on the merits to account for the *Pick-Up-Stix* releases, Plaintiff estimated the waiting time penalty exposure at approximately \$826,214.

43. Plaintiff alleges that PAGA civil penalties would be recoverable for each pay period in which she could prove an underlying Labor Code violation. According to Plaintiff's expert's data analysis, the Settlement Class members worked a combined total of 23,553 pay periods during the PAGA liability period. Assuming that Plaintiff was successful in proving at least one Labor Code violation in each of these pay periods and recovered an additional \$50 per pay period, Plaintiff calculates Defendant's PAGA exposure at \$1,177,650 (23,553 pay periods * \$50). However, Plaintiff acknowledged that there was a chance that there would be certain pay periods, particularly during slower periods of work, where it was conceivable that no Labor Code violations could be proven. Plaintiff also recognizes that the Court has discretion to reduce any award of PAGA penalties. Therefore, applying only a 25% reduction for the chance of not proving violations in all pay periods and/or the Court reducing the penalties, Plaintiff estimates Defendant's realistic PAGA exposure at approximately \$883,238.

44. Using these estimated figures, Plaintiff estimated that the potential reasonable recovery for the Settlement Class would be approximately \$7,433,405. Thus, the proposed recovery to the Settlement Class of \$7,500,000 represents approximately slightly *more* than 100% of Plaintiff's reasonably forecasted class-wide recovery, which is well within the range approved by courts as being fair, reasonable and adequate, while also avoiding further expense and risk of proceeding towards class certification and trial.

45. Concurrently with the filing of this motion, Plaintiff provided notice of the proposed Settlement, as well as copies of the Motion for Preliminary Approval and all papers filed in support hereof, to the LWDA. Attached as **Exhibit D** are true and correct copies of Plaintiff's Settlement submission and the LWDA's confirmation of receipt.

46. I confirm that I am not affiliated with the proposed settlement administrator, CPT Group. I am also not aware of any class, representative or other collective action pending in any other court that asserts claims similar to those asserted in this action.

1 I declare under penalty of perjury under the laws of California and the United States that
2 the foregoing is true and correct. Executed on November 14, 2024, at El Segundo, California.

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Fletcher W. Schmidt
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EXHIBIT A

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Heather-Ann Sisson (née Montero) (“Plaintiff”), as an individual and as a representative of the proposed Class described herein and as a representative of the State of California, and Defendant Bisco Industries, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Heather-Ann Montero vs. Bisco Industries, Inc.*, Case No. 23STCV00918, and pending in the Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.3. “Aggrieved Employees” means all current and former employees of Defendant in California who worked at any time during the PAGA Period.
- 1.4. “Class” means all current and former employees of Defendant in California who worked at any time during the Class Period.
- 1.5. “Class Counsel” means Paul K. Haines, Fletcher W. Schmidt, and Andrew J. Rowbotham, of Haines Law Group, APC.
- 1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.7. “Class Data” means a confidential spreadsheet that includes for each Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, phone number, Social Security number, number of Class Period Workweeks and PAGA Pay Periods, and any amounts paid as a Pick-Up-Stix Payment.
- 1.8. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.9. “Class Member Address Search” means the Settlement Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database (“NCOA”), skip traces, and direct contact by the Administrator with Class Members.

- 1.10. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.11. “Class Period” means the period between January 13, 2019, and August 31, 2024.
- 1.12. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.13. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.14. “Court” means the Superior Court of California, County of Los Angeles.
- 1.15. “Defendant” means Defendant Bisco Industries, Inc.
- 1.16. “Defense Counsel” means Max Fischer, Eric M. Makinen, and Eva M. Nofri of Morgan, Lewis & Bockius LLP.
- 1.17. “Effective Date” means the date on which the Judgment becomes a Final Judgment. For purposes of this Settlement Agreement, the final judgment “becomes final” only after the Court grants the motion for final approval of the settlement and upon the latter of (i) the period for filing any appeal, writ, or other appellate proceeding challenging or opposing the Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; (ii) any appeal, writ or other appellate proceeding challenging or opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (iii) any appeal, writ or other appellate proceeding has upheld the Court’s final order with no right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not become effective, and Defendant will not be obligated to fund this Settlement, until the Court’s order approving the Settlement is completely final, and there is no further recourse by an appellant, objector, or intervenor who seeks to contest the Settlement.
- 1.18. “Eligible Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.
- 1.19. “Eligible Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.20. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.22. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.23. “Gross Settlement Amount” means \$7,500,000.00 which is the total amount Defendant

agrees to pay under the Settlement except as provided in Paragraph 3.1.1 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.

- 1.24. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Eligible Workweeks worked during the Class Period.
- 1.25. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Payment calculated according to the number of Eligible Pay Periods worked during the PAGA Period.
- 1.26. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.27. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code § 2699, subd. (i).
- 1.28. "LWDA PAGA Payment" means the 75% of the PAGA Payment paid to the LWDA under Labor Code § 2699, subd. (i).
- 1.29. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Administration Expenses Payment, and the Pick-Up-Stix Payment (as defined in Paragraph 2.4). The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. "Non-Participating Class Member" means any Class Member who opts out of the class Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.31. "PAGA Period" means the period between January 13, 2022, and August 31, 2024.
- 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.33. "PAGA Notice" means Plaintiff's January 13, 2023, letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3, subd.(a).
- 1.34. "PAGA Payment" means the total amount paid in settlement of the claim for PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$62,500.00) and the 75% to LWDA (\$187,500.00) in settlement of PAGA claims.
- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Pick-Up-Stix Class Members" means the Class Members who previously accepted an individual settlement with Defendant in exchange for a release of claims asserted in this Action.

- 1.37. “Pick-Up-Stix Payment” means the aggregate amount of \$153,500.00 previously paid to the Pick-Up-Stix Class Members as individual settlements with Defendant.
- 1.38. “Plaintiff” means Heather-Ann Sisson (née Montero), the named plaintiff in the Action.
- 1.39. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.40. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.41. “Released Class Claims” all federal, state and local law claims, rights, demands, liabilities, and causes of action, asserted in the First Amended Complaint, or that reasonably could have been alleged in the First Amended Complaint based upon or arising out of the facts alleged therein, including causes of action for: (1) failure to pay minimum wages for all hours worked; (2) claims related to the regular rate calculation; (3) failure to pay overtime compensation; (4) failure to provide meal periods and pay meal period premiums; (5) failure to authorize and permit rest breaks and pay rest period premiums; (6) failure to indemnify necessary business expenses; (7) failure to timely pay all final wages during employment and at termination; (8) failure to provide accurate itemized wage statements; (9) unfair and unlawful competition based on the Labor Code violations alleged in (1)-(9); (10) unpaid expense reimbursements, and (11) all claims for interest, penalties, attorneys' fees, costs and any other monetary relief based upon the claims described above and including, but not limited to, pursuant to Labor Code §§ 210,218.5, 218.6, Code of Civil Procedure §1021.5, and/or Civil Code §§ 3287(b) and 3289.
- 1.42. “Released PAGA Claims” means all claims for civil penalties under PAGA that was alleged in the Complaint and/or in the PAGA Notice, or that reasonably could have been alleged in the Complaint and/or the PAGA Notice, based upon or arising out of the facts alleged in the Complaint or in the PAGA Notice.
- 1.43. “Released Parties” means: Defendant, its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, or related entities (including any companies, corporations, partnerships, alter egos, joint venturers, and actual or alleged joint employers), parents and attorneys.
- 1.44. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.45. “Response Deadline” means 60 calendar days after the Settlement Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her written Objection to the Settlement, (c) submit Challenges to Workweeks and/or Pay Periods. Class Members to whom Class Notice is resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.46. “Settlement” means the disposition of the Action effected by this Agreement and the

Judgment.

- 1.47. “Settlement Administrator” means CPT Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

2. RECITALS.

- 2.1. On January 13, 2023, Plaintiff filed the Action. On March 20, 2023, after Plaintiff exhausted her administrative requirements with the Labor & Workforce Development Agency ("LWDA"), Plaintiff amended her complaint to add a cause of action for civil penalties under the Private Attorneys General Act ("PAGA").
- 2.2. Pursuant to Labor Code § 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. Prior to mediation, Plaintiff obtained, through informal discovery, payroll data for substantially all Class Members through February 2024, in addition to relevant written policies. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.4. Prior to mediation, Defendant extended individual settlement offers to substantially all Class Members, offering \$500 to each employee in exchange for a release of liability. A total of 307 employees accepted Defendant's offer, who are the “Pick-Up-Stix Class Members.” Defendant paid a total of \$153,500.00 through this process to the Pick-Up-Stix Class Members as the Pick-Up-Stix Payment.
- 2.5. On April 5, 2024, the Parties participated in an all-day mediation presided over by Eve Wagner, Esq., which led to this Agreement to settle the Action.
- 2.6. Based on their own independent investigations and evaluations, Class Counsel is of the opinion that the Settlement with Defendant for the consideration and terms set forth herein, considering the representative and class claims, and the risk of loss, is fair, reasonable, and adequate in light of all known facts and circumstances, and is in the best interests of the Class. Class Counsel is also of the opinion that the total consideration and payment set forth in this Stipulation of Settlement is fair, reasonable, and adequate in light of the uncertainties surrounding the risk of further litigation, the possibility of losing class certification, and the defenses that Defendant has asserted and/or could assert as to the substantive merit of the claims.
- 2.7. Class Counsel has weighed the monetary benefit under the Settlement to the Settlement Class against the expenses and length of continued proceedings that would be necessary to prosecute the Action against Defendant through class certification, through pre-trial motions, summary judgment, trial and possible appeals. Class Counsel has also taken into account the uncertain outcome and risk of any litigation, especially in complex actions such as class and representative actions, as well as the difficulties and delay inherent in such litigation. As a result, Class Counsel has determined that the settlement set forth in this Stipulation of Settlement is in the best interests of the Class.

- 2.8. Defendant specifically and generally denies any and all liability or wrongdoing of any sort with regard to the claims alleged in the Action and makes no concessions or admissions of liability of any sort, and contends that for any purpose other than Settlement, the Action is not appropriate for class or representative action treatment. Nonetheless, Defendant has concluded that further conduct of the Action would be protracted, distracting, and expensive, and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation. Defendant has also taken into account the uncertainty and risks inherent in any litigation. Defendant has therefore determined that it is desirable and beneficial to it to settle the Action in the manner and upon the terms and conditions set forth in this Stipulation.
- 2.9. Neither this Stipulation of Settlement, nor any document referred to in it, nor any actions taken pursuant to this Stipulation of Settlement, is or should be construed as an admission by Defendant of any fault, wrongdoing, or liability whatsoever. Nor should the Stipulation of Settlement be construed as an admission that Plaintiffs could meet any of the class action requirements or that any PAGA claims would be manageable for trial. There has been no final determination by any court as to the merits of the claims asserted by Plaintiff against Defendant, as to whether a class action should be certified, or that any PAGA claim could be tried.
- 2.10. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending class or PAGA actions asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS.**

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 3.1.1 below, Defendant promises to pay a total of \$7,500,000.00 as the Gross Settlement Amount, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Parties agree that the Pick-Up-Stix Payment shall be credited towards Defendant's payment obligations under this Agreement, as a pre-payment towards the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.1.1. Escalator of Gross Settlement Amount or Truncation of Class Period. Defendant represents that there are an estimated 50,277 Workweeks worked by Class Members through the mediation. If the number of Eligible Workweeks worked during the Class Period is more than 10% greater than this figure (i.e., if there are 55,305 or more Eligible Workweeks worked), then, solely at the Defendant's option, either (a) the Gross Settlement Amount will increase in proportion to the increased amount over the 10% threshold - for example, if such increase in workweeks is 11% over 50,277 workweeks, the Gross Settlement Amount will increase by 1%, or (b) the Class Period shall end as of the date the Workweeks during the Class Period reaches 55,305.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct

the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

- 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member and Aggrieved Employee). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments in accordance with the timing required under Code of Civil Procedure section 1005. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
- 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 1/3 of the Gross Settlement Amount, which is currently estimated to be \$2,500,000.00 and a Class Counsel Litigation Expenses Payment of not more than \$50,000.00. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment in accordance with the timing required under Code of Civil Procedure section 1005. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. Neither Class Counsel nor any other attorneys acting for, or purporting to act for, the Class, Class Members, or Plaintiff, may recover or seek to recover any amounts for fees, costs, or disbursements from the Defendant or the Released Parties except as expressly provided herein.
- 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$10,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than the above stated amount, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4. To Each Participating Class Member: An Individual Class Payment, which reflect settlement of a dispute over claimed wages, interest, expenses penalties, and other alleged damages, which will be calculated by
- 3.2.4.1. First, each Participating Class Member who is **not** a Pick-Up-Stix Class Member

will be awarded \$500 from the Net Settlement Amount.

- 3.2.4.2. Second, the remainder of the Net Settlement Amount after the distributions to the Participating Class Members who were not Pick-Up-Stix Class Members will be allocated to all Participating Class Members by (a) dividing the remaining Net Settlement Amount by the total number of Eligible Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Eligible Workweeks.

- 3.2.4.3. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest, expenses and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms, if required. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment. Other than as set forth above, the Administrator will not make any deductions, withholdings, or additional payments, including without limitation, medical or other insurance payments or premiums, employee 401(k) contributions or matching employer contributions, wage garnishments to the extent permitted by law, or charity withholdings, from or with respect to the Individual Class Payments, and entry of the Order of Final Approval by the Court shall be deemed authority not to make any such deductions, withholdings, or additional payments.

- 3.2.4.4. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members pursuant to the formula in Paragraph 3.2.4.

- 3.2.5. To the LWDA and Aggrieved Employees: PAGA Payment in the amount of \$250,000.00 to be paid from the Gross Settlement Amount, with 75% (\$187,500.00) allocated to the LWDA PAGA Payment and 25% (\$62,500.00) allocated to the Individual PAGA Payments.

- 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Payment (\$62,500.00) by the total number of Eligible Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's Eligible Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms, if required. The Administrator will not make any deductions, withholdings, or additional payments, including without limitation, medical or other insurance payments or premiums, employee 401(k) contributions or

matching employer contributions, wage garnishments to the extent permitted by law, or charity withholdings, from or with respect to the Individual PAGA Payments.

- 3.2.5.2. If the Court approves a PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Funding of Gross Settlement Amount. Defendant will pay the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes on the later of fifteen (15) calendar days after the Administrator provides all information necessary for Defendant to transfer funds to a QSF, or fifteen days after the Effective Date.
- 4.2. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.2.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all PAGA Group members including Non-Participating Class Members who qualify as PAGA Group members (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must conduct an updated Class Member Address Search.
- 4.2.2. The Administrator must conduct another Class Member Address Search for all Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.2.3. Forty-five days before the check cashing deadline, the Administrator will send a reminder postcard to anyone who has not yet cashed an Individual Class Payment or Individual

PAGA Payment check.

- 4.2.4. Uncashed Checks. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member or PAGA Group member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

5. RELEASES OF CLAIMS. As of the Effective Date, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

- 5.1. Plaintiff's Release. Upon Defendant fully funding the Gross Settlement Amount and separately paid all employer payroll taxes, the Class Representative shall each be deemed to have fully, finally, and forever released the Released Parties from all Class Representative's Released Claims through the Final Approval Date. The Class Representative may hereafter discover claims or facts in addition to, or different from, those which they now know or believe to exist, but Class Representative expressly agrees to fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist on behalf of or against the other at the time of execution of this Agreement. The Class Representative shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may otherwise have had relating to the Class Representative's Released Claims pursuant to Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

- 5.2. Notwithstanding the foregoing, Class Representative does not waive or release any claim which cannot be waived or released by private agreement or law, including worker's compensation claims. Further, nothing in this Agreement shall prevent Class Representative from filing a charge or complaint with, or from participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, DFEH, NLRB or any other federal, state or local agency charged with the enforcement of any employment or other applicable laws. Class Representative, however, understands that by signing this Agreement, she waives the right to recover any damages or to receive other relief in any claim or suit brought by or through the EEOC, the DFEH or any other state or local deferral agency on her behalf to the fullest extent permitted by law, but expressly excluding any monetary award or other relief available from the SEC/OSHA, including an SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be waived.
- 5.3. Release by Participating Class Members: Upon Defendant fully funding the Gross Settlement Amount and separately paid all employer payroll taxes, all Participating Class Members fully and finally release the Released Parties from the Released Claims that arose during the Class Period.

- 5.4. Release by Aggrieved Employees: Upon Defendant fully funding the Gross Settlement Amount and separately paid all employer payroll taxes, Plaintiff as a representative of the State of California and on behalf of the LWDA and as representative of the PAGA Group, fully and finally releases the Released Parties from the PAGA Released Claims for the PAGA Period.
- 5.5. No Effect on Employee Benefits. Neither the Settlement nor any amounts paid under the Settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by the Released Parties. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under the Released Parties' sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Stipulation shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of the Released Parties' benefit plans, policies, or bonus programs. The Released Parties retain the right to modify the language of their benefit plans, policies and bonus programs to effectuate this intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Stipulation of Settlement.
6. **MOTION FOR PRELIMINARY APPROVAL.** Plaintiff will prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.
- 6.1. Plaintiff's Responsibilities. Plaintiff will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code § 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres (if applicable); and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code § 2699.3, subd. (a)), Operative Complaint (Labor Code § 2699, subd. (l)(1)), this Agreement (Labor Code § 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator.
- 6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval as soon as practicable

after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

- 6.3. Duty to Cooperate. Class Counsel will provide the motion for preliminary approval to Defendant for its review and approval at least seven days before filing. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.
- 6.4. Preliminary Approval Order: The Court's preliminary approval of this Settlement shall be embodied in an order certifying the Class for settlement purposes only, preliminarily approving the Settlement and providing for Class Notice to be mailed to the Class in materially the same format attached hereto as Exhibit A, and which will also set the date for the Final Approval Hearing.

7. SETTLEMENT ADMINISTRATION.

- 7.1. Class Data. Not later than 10 business days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 7.2. Selection of Administrator. The Parties have jointly selected CPT Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, CPT Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.3. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.4. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation § 468B-1.

7.5. Notice to Class Members.

7.5.1. As expeditiously as possible after receipt of the Class Data, the Administrator shall notify the Parties that the list has been received and state the number of Class Members, PAGA Members, Eligible Workweeks, and Eligible Pay Periods in the Class Data.

7.5.2. Using best efforts to perform as soon as possible, and in no event later than 10 business days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses by conducting a Class Member Address Search.

7.5.3. Not later than 7 days after the Administrator’s receipt of any Class Notice returned by the USPS as undeliverable, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.5.4. The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.5.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in good faith. in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the Response Deadline, whichever is later.

7.6. Requests for Exclusion (Opt-Outs).

7.6.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion by to the Response Deadline. A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and includes the Class Member’s name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely postmarked by the

Response Deadline. Plaintiff agrees to not request exclusion from the Class Settlement.

7.6.2. The Class Representative, by signing this Stipulation, is bound by the terms herein and further agrees not to request to be excluded from the Settlement and not to object to any terms of this Stipulation. Any such request for exclusion or objection shall therefore be void and of no force or effect.

7.6.3. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity.

7.6.4. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.6.5. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the PAGA Released Claims and are eligible for an Individual PAGA Payment.

7.7. Conflicting Exclusions and Objections. A Class Member cannot submit both a Request for Exclusion and an objection. If a Class Member submits both a valid and timely objection and Request for Exclusion, the Request for Exclusion will control and the objection will be invalid.

7.8. Challenges to Calculation of Eligible Workweeks and Pay Periods. Each Class Member shall have until the Response Deadline to challenge the number of Eligible Workweeks and Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Eligible Workweeks and Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's Eligible Workweeks and Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Eligible Workweeks and Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.9. Objections to Settlement.

7.9.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement,

and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.9.2. Participating Class Members may send written objections to the Administrator, by mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so prior to the Response Deadline. The written objection should state the Participating Class Member's name and address and describe the reason(s) why the Participating Class Member objects to the Settlement and include or attach any documents upon which the objection is based.

7.9.3. Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.10. No Solicitation. The Parties and their counsel agree that they will not solicit, encourage, counsel or advise any individual to opt out of or object to the Settlement.

7.11. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.11.1. Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval Order, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval Order and the Judgment. The settlement website will have the URL www.MonteroClassActionSettlement.com, or a substantially similar URL subject to the Parties' approval, and the website will only remain available until 30 days after the Effective Date at which time it will be taken down by the Administrator. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.

7.11.2. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, written objections received, challenges to Workweeks and/or Pay Periods received and/or resolved ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and written objections received.

7.11.3. Administrator's Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its

obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), and the number of written objections. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.11.4. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

7.12. Nullification of Settlement. Defendant shall have the sole right to void and withdraw from this Settlement if at any time prior to the Final Approval Date: (a) within fourteen (14) calendar days after expiration of the Response Deadline if five percent (5%) or more of the Class Requests Exclusion from this Settlement; (b) the Settlement is construed in such a fashion that Defendant would be required to pay more than the Gross Settlement Amount, exclusive of employer-side taxes and any increase pursuant to escalator clause; (c) the Court does not certify the Class, or does not certify a class releasing all of the Released Class Claims defined in this Stipulation, or does not approve the PAGA settlement including the release all of the Released PAGA Claims, or otherwise makes an order inconsistent with any of the material terms (as determined by Defendant) of this Settlement; (d) any pending litigation or litigation filed prior to the Final Approval Date in any way prevents the Settlement from being preliminarily or finally approved by the Court; or (e) Plaintiff or Class Counsel materially breach the Settlement of this Agreement. If Defendant nullifies the settlement, it will pay administration costs to date.

8. MOTION FOR FINAL APPROVAL.

8.1. Motion for Final Approval. Class Counsel will be responsible for drafting the Motion for Final Approval that includes a request for approval of the PAGA settlement under Labor Code section 2699, and approval of the requested Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Administrator Expenses Payment to be heard at the Final Approval Hearing. Plaintiff will provide the draft Motion for Final Approval and supporting papers to Defendant for its review and comment at least seven days before filing. The Parties will jointly prepare any proposed order granting final approval. Plaintiff shall request that the Court schedule the Final Approval Hearing no earlier than thirty (30) days after the expiration of the Response Deadline. Class Counsel will file the Motion before the calendared Final Approval Hearing in accordance with the timing required by Code of Civil Procedure section 1005.

8.2. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

- 8.3. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 8.4. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 8.5. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.
- 8.6. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.
- 8.7. Amended Judgment. If any amended judgment is required under Code of Civil Procedure § 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

9. ADDITIONAL PROVISIONS.

- 9.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Action have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative

treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 9.2. Publicity. Neither Plaintiffs nor Class Counsel shall issue any press release or announcement of any kind related in any way to the settlement. Plaintiffs and Class Counsel agree that, prior to seeking preliminary approval of the settlement, they will keep the terms of the settlement confidential. From and after preliminary approval of the settlement, Plaintiffs and Class Counsel may: (1) as required by law; (2) as required under the terms of the settlement; or (3) as required under counsel's duties and responsibilities as class counsel, comment regarding the specific terms of the settlement. In all other cases, Plaintiffs and Class Counsel agree to limit their statements regarding the terms of the settlement, whether oral, written or electronic (including the world wide web), to say the Actions have been resolved and that Plaintiffs and Class Counsel are satisfied with the settlement terms. Nothing in this Paragraph is intended to interfere with Class Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including but not limited to, communicating with Settlement Class Members regarding the Settlement, and nothing shall prohibit Class Counsel from referring to the Settlement in adequacy of counsel declarations or related court filings.
- 9.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 9.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 9.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 9.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the

assistance of a mediator and/or the Court for resolution.

- 9.7. Privacy of Documents and Information. Plaintiff and Class Counsel agree that none of the documents and information provided to them by Defendant in connection with the Action and this Settlement shall be used for any purpose (including in any other litigation) other than this Settlement of the Action.
- 9.8. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 9.9. No Tax Advice. Each Party to this Stipulation (for purposes of this section, the “acknowledging party” and each Party to this Stipulation other than the acknowledging party, an “other party”) acknowledges and agrees that (1) no provision of this Stipulation, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Stipulation, (b) has not entered into this Stipulation based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Stipulation.
- 9.10. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 9.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 9.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 9.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 9.14. Severability. Before declaring any provision of this Stipulation invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Stipulation valid and enforceable. Should the Court deem any clause or provision of this Stipulation be invalid, illegal, or

unenforceable, it shall first attempt to modify or reform it as minimally necessary to be valid, lawful, and enforceable.

- 9.15. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 9.16. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 9.17. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 9.18. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 9.19. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:
- To Plaintiff: Fletcher W. Schmidt of Haines Law Group, APC
2155 Campus Drive, Suite 180, El Segundo, CA 90265
fschmidt@haineslawgroup.com
- To Defendant: Max Fischer of Morgan, Lewis & Bockius LLP
300 South Grand Avenue, Twenty-Second Floor, Los Angeles CA 90071
max.fischer@morganlewis.com
- 9.20. Execution in Counterparts. This Agreement may be executed in one or more counterparts including execution electronically (i.e. DocuSign), which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 9.21. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. Upon the signing of this Agreement, the Parties further agree that this Agreement shall extend the date to bring a case

to trial under CCP § 583.310 for the entire period of this settlement process, pursuant to CCP § 583.330.

- 9.22. Enforcement Action. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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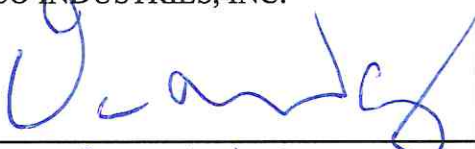
[SIGNATURES BEGIN ON FOLLOWING PAGE]

DATED:

10-1-24

BISCO INDUSTRIES, INC.

By:



Name:

Don Wagner

Title:

President - L.O.O.

DATED: 09/19/24

HEATHER-ANN SISSON (NÉE MONTERO)

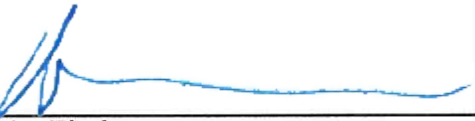
By:


Heather-Ann Sisson (Sep 19, 2024 17:52 PDT)
Plaintiff and Settlement Class Representative

DATED: October 1, 2024

MORGAN, LEWIS & BOCKIUS LLP

By:



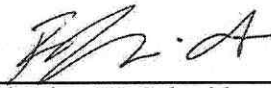
Max Fischer

Attorneys for Defendant

DATED: 09/19/24

HAINES LAW GROUP, APC

By:



Fletcher W. Schmidt

Attorneys for Plaintiff

EXHIBIT B

COURT APPROVED NOTICE OF CLASS ACTION AND PAGA SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Heather-Ann Montero vs. Bisco Industries, Inc., Los Angeles Superior Court Case No. 23STCV00918

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

This notice is being provided to you in English.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Bisco Industries, Inc. ("Defendant") for alleged wage and hour violations. The Action was filed by a former employee of Defendant, Heather-Ann Sisson (née Montero) ("Plaintiff"), and seeks payment of unpaid minimum and overtime wages, meal and rest period premium wages, unreimbursed necessary business expenses, wage statement penalties, and waiting time penalties for Class Members (defined as all current and former employees of Defendant in California who worked at any time between January 13, 2019, and August 31, 2024 (the "Class Period")); and penalties under the California Private Attorney General Act ("PAGA") for all Aggrieved Employees (defined as all current and former employees of Defendant in California who worked at any time between January 13, 2022, and August 31, 2024 (the "PAGA Period")).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendant's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$<<CLASS PAYMENT>> (less withholding) and your Individual PAGA Payment is estimated to be \$<<PAGA PAYMENT>>.** The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendant's records showing that **you worked <<CLASS WORKWEEKS>> workweeks** during the Class Period and **you worked <<PAGA PAY PERIODS>> pay periods** during the PAGA Period. Additionally, Defendant's records reflect that you **<<DID / DID NOT>>** previously cash the check for \$500 that was offered to you in approximately February 2024 (these \$500 checks are referred to herein as the "Individual Release Offers"). If you believe that any of this information is incorrect, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have

carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. However, if you previously cashed the \$500 Individual Release Offer, your decision to opt-out of the Settlement will have no impact on the enforceability of the release of liability associated with the Individual Release Offer. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is <<RESPONSE DEADLINE>>	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by <<RESPONSE DEADLINE>>	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the terms of the Settlement if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on <<FINAL APPROVAL HEARING DATE>>. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by <<RESPONSE DEADLINE>>	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by <<RESPONSE DEADLINE>>. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay all minimum wages, overtime wages, failing to provide meal periods, rest periods, failing to reimburse all necessary business expenses, and failing to provide accurate itemized wage statements, and all final pay upon separation of employment. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*). Plaintiff is represented by attorneys in the Action: Paul K. Haines, Fletcher W. Schmidt, and Andrew J. Rowbotham of Haines Law Group, APC (“Class Counsel.”)

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than

continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$7,500,000.00 as the Gross Settlement Amount (“Gross Settlement”). This amount includes \$153,500 that has already been paid to Settlement Class Members through the Individual Release Offers, which will be retained by any Settlement Class Member who cashed the Individual Release Offer. Defendant has agreed to deposit the remaining \$7,346,500 of the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than fifteen (15) calendar days after the Judgment entered by the Court becomes final.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$2,500,000.00 (1/3 of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$50,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 as a Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class. A Class Representative Service Payment will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$10,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$250,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees

based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by first allocating \$500 to each Participating Class Member who did not previously cash the \$500 Individual Release Offer to first place all Participating Class Members on equal footing, and then allocating the remaining Net Settlement to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of twenty percent (20%) of each Individual Class Payment to taxable wages (“Wage Portion”) and eighty percent (80%) to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). **If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be disbursed to the California Controller’s Unclaimed Property Fund in the name of the Class Member or PAGA Group member.**
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than <<RESPONSE DEADLINE>>, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by <<RESPONSE DEADLINE>>. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant. However, if you previously cashed the \$500 Individual Release Offer, you will be entitled to retain that money but your decision to opt-out of the Settlement will have no impact on the enforceability of the release of liability associated with the Individual Release Offer, which may impact your ability to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void (Defendant will not pay any money and Class Members will not release any claims against Defendant).
8. Administrator. The Court has appointed a neutral company, CPT Group, Inc. (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Defendant has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members release Defendant, its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, or related entities (including any companies, corporations, partnerships, alter egos, joint venturers, and actual or alleged joint employers), parents and attorneys (“Released Parties”) from any and all federal, state and local law claims, rights, demands, liabilities, and causes of action, asserted in the First Amended Complaint, or that reasonably could have been alleged in the First Amended Complaint based upon or arising out of the facts alleged therein, including causes of action for: (1) failure to pay minimum wages for all hours worked; (2) claims related to the regular rate calculation; (3) failure to pay overtime compensation; (4) failure to provide meal periods and pay meal period premiums; (5) failure to authorize and permit rest breaks and pay rest period premiums; (6) failure to indemnify necessary business expenses; (7) failure to timely pay all final wages during employment and at termination; (8) failure to provide accurate itemized wage statements; (9) unfair and unlawful competition based on the Labor Code violations alleged in (1)-(9); (10) unpaid expense reimbursements, and (11) all claims for interest, penalties, attorneys' fees, costs and

any other monetary relief based upon the claims described above and including, but not limited to, pursuant to Labor Code §§ 210, 218.5, 218.6, Code of Civil Procedure § 1021.5, and/or Civil Code §§ 3287(b) and 3289. The time period covered by this release will mirror the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees will be bound by the following release:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release the Released Parties from all claims for civil penalties under PAGA that was alleged in the Complaint and/or in the PAGA Notice, or that reasonably could have been alleged in the Complaint and/or the PAGA Notice, based upon or arising out of the facts alleged in the Complaint or in the PAGA Notice.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) first allocating \$500 to each Participating Class Member who did not previously cash the \$500 Individual Release Offer, then (b) dividing the remaining Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (c) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing the 25% share of PAGA Penalties (\$62,500.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice, along with an indication of whether Defendants records show that you previously cashed the \$500 Individual Release Offer. You have until **<<RESPONSE DEADLINE>>** to challenge the number of Workweeks and/or Pay Periods credited to you, or the fact of whether you cashed the \$500 Individual Release Offer. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. **Section 9** of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Heather-Ann Montero vs. Bisco Industries, Inc.*, Los Angeles Superior Court Case No. 23STCV00918, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by <<RESPONSE DEADLINE>>, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least 16 court days before <<FINAL APPROVAL HEARING DATE>> (the Final Approval Hearing), Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Payment stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Payment. Upon reasonable request,

Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website <<ADMIN URL FOR CASE>> or the Court's website (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 23STCV00918.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Payment may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is <<RESPONSE DEADLINE>>.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action (*Heather-Ann Montero vs. Bisco Industries, Inc.*, Los Angeles Superior Court Case No. 23STCV00918) and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on <<FINAL APPROVAL HEARING DATE>> at <<FINAL APPROVAL HEARING TIME>> in Department 10 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before deciding. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://my.lacourt.org/laccwelcome>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website <<ADMIN URL FOR CASE>> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website <<ADMIN URL FOR CASE>>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the

Action, Case No. 23STCV00918. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0803.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

HAINES LAW GROUP, APC

Paul K. Haines (phaines@haineslawgroup.com)

Fletcher W. Schmidt (fschmidt@haineslawgroup.com)

Andrew J. Rowbotham (arowbotham@haineslawgroup.com)

2155 Campus Drive, Suite 180

El Segundo, California 90245

Tel: (424) 292-2350

Fax: (424) 292-2355

Settlement Administrator:

CPT Group, Inc.

<<ADMIN INFO>>

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check.

Please make sure you contact the Settlement Administrator before the void date otherwise your check will be voided, and the monies will be disbursed to the California Controller's Unclaimed Property Fund in your name.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT C

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

January 13, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Heather-Ann Montero v. Bisco Industries, Inc., et al.*

To Whom It May Concern:

Please be advised that this law firm represents Heather-Ann Montero in claims arising from her employment with Bisco Industries, Inc. and Does 1 through 100 (“Defendants”). Ms. Montero is an “aggrieved employee” within the meaning of Labor Code section 2699.3 as to all of the violations alleged herein. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 754 (“any Labor Code penalties recoverable by state authorities may be recovered in a PAGA action by a person who was employed by the alleged violator and affected by at least *one* of the violations alleged in the complaint.”) (emphasis added). The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, “aggrieved employees” includes all of Defendants’ employees who worked for Defendants in California during the one year immediately preceding the date of this letter through the present.

Defendants operate an electronic components and fasteners distributor, specializing in the procurement and sale of electronic parts. Ms. Montero was employed by Defendants as a “L3” from approximately July 2018 to May 2022. Ms. Montero’s job duties included calling, telemarketing, and otherwise selling hardware and electrical components in addition to Defendants’ other products.

During Ms. Montero’s employment with Defendants, Defendant classified Ms. Montero and other “L3’s” as exempt employees under the inside and/or outside sales exemptions. However, because Ms. Montero and other aggrieved employees did not receive at least half of their compensation in the form of commissions, Ms. Montero and other aggrieved employees did not meet the requirements for the inside sales exemption. Additionally, because Defendant required Ms. Montero to work 50 hours a week during portions of the relevant time period, the salary she was paid did not amount to one and one-half times the minimum wage for all hours worked during each pay period, thus excluding her from the inside sales exception. *See Peabody v. Time Warner Cable, Inc.* (2014) 59 Cal. 4th 662, 669-70 (holding that the exemption’s language is to be construed

narrowly against the employer with an eye towards protecting employees and that to comply with the requirements of the exemption and of [Section 204] for each workweek in the pay period the payment of the earnings to employee must exceed 1.5 times the minimum wage for each hour worked during the pay period). Moreover, because Ms. Montero and other aggrieved employees did not work at least half their time outside of the office, Ms. Montero and other aggrieved employees did not meet the requirements for the outside sales exemption in every pay period. As a result of not qualifying for the sales exemptions, Ms. Montero and other aggrieved employees were deprived of all overtime wages earned during the relevant time period

In addition, Defendants utilized a timekeeping system, which upon information and belief, resulted in Ms. Montero not being credited with all hours actually worked. Specifically, although Ms. Montero and other aggrieved employees frequently worked in excess of 8.0 hours per day, they were specifically instructed by managers to record their hours worked to reflect only eight hours of work a day regardless of the hours truly worked. As a result of Defendants' timekeeping policies/practices, Ms. Montero and other employees were not credited with all hours actually worked, and Defendants failed to maintain accurate records of employees' hours worked.

Defendants failed to provide Ms. Montero and other aggrieved employees with timely 30-minute meal periods commencing before the end of the fifth hour of work. Specifically, during the relevant time period, Defendants required Ms. Montero and other aggrieved employees to begin work at 7:00 a.m. or earlier each day. However, Defendants' policies/practices were to have meal periods scheduled at 12:00 p.m or later, after the end of the fifth hour of work. In addition, Defendants also failed to provide Ms. Montero and other aggrieved employees with an additional hour of premium pay for each workday in which a meal period violation occurred, as required by Labor Code § 226.7.

Ms. Montero and other aggrieved employees were also not authorized and permitted to take a rest period for every 4 hours worked (or major fraction thereof) due to Defendants' unlawful rest period policies/practices. Specifically, Defendants required Ms. Montero and other aggrieved employees to remain available to cover the large volume of customer calls at any given time, which generally did not permit employees to take duty-free rest periods. Additionally, Defendants did not authorize and permit Ms. Montero and other aggrieved employees to take third rest periods when they worked in excess of 10.0 hours in a workday. Defendants also failed to provide Ms. Montero and other aggrieved employees with an additional hour of premium pay for each workday in which a rest period violation occurred, as required by Labor Code § 226.7.

During their respective employments with Defendants, Ms. Montero and other aggrieved employees were required to use their personal cell phones for work in order to receive calls from clients and finalize sales. Specifically, after the Defendant moved to remote work in 2020, all work-related calls were conducted through Ms. Montero and aggrieved employee's personal cell phone. Despite this, Defendants failed to reimburse Ms. Montero and other aggrieved employees for all necessary business expenses associated

with using their personal cell phones in violation of Labor Code § 2802. *See Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144 (holding that employer who requires employees use their personal cell phone for business purposes must reimburse a reasonable percentage of the employee's cell phone bill). Moreover, during the relevant time period, Defendants required Ms. Montero and other aggrieved employees to work from home and use their home computers and internet to conduct essential company business. Although Defendant required Ms. Montero and other aggrieved employees to use their home computers and internet, they failed to compensate Ms. Montero and other employees for any portion of these expenses.

As a result of Defendants' failure to pay overtime wages, as well as meal and rest period premium wages, Defendants maintained inaccurate payroll records, issued inaccurate wage statements, and failed to pay all final wages to Ms. Montero and other aggrieved employees upon their separation of employment. As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 7 ("Wage Order 7"):

Overtime Wage Violations

Defendants were required to properly pay Ms. Montero and other aggrieved employees for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 7. Wage Order 7, § 3 requires an employer to pay an employee "one and one-half (1½) times the employee's regular rate of pay" for work in excess of 8 hours per work day and/or in excess of 40 hours of work in the workweek. Defendants caused Ms. Montero and other aggrieved employees to work overtime hours but did not compensate Ms. Montero or other aggrieved employees at one and one-half times their regular rate of pay for all such hours.

Meal Period Violations

As alleged above, Defendants failed to provide Ms. Montero and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 7, § 11. As a result, Ms. Montero and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.").

Rest Period Violations

As described above, Defendants also failed, and continue to fail, to authorize and permit Ms. Montero and similarly aggrieved employees to take all required and compliant rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 7, § 12. As a result, Ms.

Montero and similarly aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that all rest periods were not authorized and permitted. See Labor Code § 226.7.

Failure to Reimburse Necessary Business Expenses

Defendants failed to reimburse Ms. Montero and other aggrieved employees for necessary work expenses, including the use of their personal cellular phones and home internet for business purposes. Defendants' policy of not providing reimbursement for necessary work-related expenses violates Wage Order 7, § 9 and Labor Code §§ 2802 and 2804 ("An employer shall indemnify her or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her or her duties, or of her or obedience to the directions of the employer.") Ms. Montero and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Ms. Montero and other aggrieved employees with complete and accurate wage statements with respect to gross wages earned, total hours worked, net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code § 226 *et seq.* Defendants' failures in furnishing Ms. Montero and other aggrieved employees with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime wages as well as meal and rest period premium wages and deprived them of the information necessary to identify the discrepancies in Defendants' reported data and whether they have been paid all wages earned.

Waiting Time Penalties

Defendants failed to timely pay Ms. Montero and other aggrieved employees all final wages due to them at the time of their separation which includes, among other things, unpaid overtime wages, and meal and rest period premium wages. Further, Ms. Montero is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay other aggrieved employees all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Ms. Montero and other aggrieved employees their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due.

As an "aggrieved employee", Ms. Montero will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties (including an amount equal to the unpaid wages) resulting from the wage and

hour violations alleged herein. Based on Ms. Montero's own investigation, and on information and belief, Defendants committed and continue to commit the following Labor Code violations:

- a. Defendants violated Labor Code §§ 204, 510, 558, 1194 and 1198 by failing to pay Ms. Montero and other aggrieved employees all overtime compensation earned;
- b. Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all meal periods as required by law and failing to pay meal period premiums to Ms. Montero and similarly aggrieved;
- c. Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Ms. Montero and similarly aggrieved employees to take all of their statutorily-mandated, duty-free rest periods and failing to pay rest period premiums to Ms. Montero and similarly aggrieved employees;
- d. Defendants violated Labor Code §§ 2802 and 2804 by failing to reimburse Ms. Montero and other aggrieved employees for all work-related expenses incurred; and
- e. Defendants violated Labor Code § 226 by failing to furnish Ms. Montero and other aggrieved employees with accurate and compliant itemized wage statements;
- f. Defendants violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Montero and other aggrieved employees;
- g. Defendants violated Labor Code § 204 by failing to pay Ms. Montero and other aggrieved employees all wages earned at least twice during each calendar month.
- h. Defendants violated Labor Code §§ 558 and 1174 by failing to maintain accurate records on behalf of Ms. Montero and aggrieved employees.

LWDA

January 13, 2023

Page 6 of 6

Pursuant to Labor Code § 2699.3, please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Fletcher W. Schmidt

cc: Bisco Industries, Inc. c/o Christine Work, agent for service of process (via certified mail)

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 01/14/2023

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8301 1164 26

Our records indicate that this item was accepted by the USPS at:

SHIPMENT RECEIVED ACCEPTANCE PENDING EL SEGUNDO,CA 90245 01/13/2023

ORIGINAL INTENDED RECIPIENT:

BISCO INDUSTRIES INC

C/O: CHRISTINE WORK

5065 E HUNTER AVE

ANAHEIM CA 92807-6001

JR



State of California

Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *

Fletcher

Your Last Name *

Schmidt

Firm Name (if any) *

Haines Law Group, APC

(Enter "in pro per" if you are representing yourself)

Your Email Address *

fschmidt@haineslawgroup

Your Street Name, Number and Suite/Apt *

2155 Campus Drive, Suite

Your Mobile Phone Number

Your City *

El Segundo

Your Work Phone Number

4242922350

Your State *

California

Your Zip/Postal Code *

90245

Plaintiff Information

Plaintiff/Aggrieved Employee Name *

Heather-Ann Montero

Plaintiff/Aggrieved Employee Occupation *

L3

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type

Please select...

Employer Name *

Bisco Industries, Inc.

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

Employer City *

5065 E Hunter Ave

Anaheim

Employer State *

California ▼

Employer Zip/Postal Code *

92807

Employer Industry *

Other ▼

Employer Industry for "Other" *

Electronic Components an

Add additional defendants

- ☐ Add any entity other than an individual
- ☐ Add an individual/sole proprietor employer

Notice General Information

Estimated Number of Employees Impacted by Violations *

100

Notice Violations – Check All that Apply *

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☐ Minimum Wage
- ☒ Overtime
- ☐ Not paid for all hours worked
- ☒ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☒ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☒ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☒ Improper or Incomplete Wage Statements
- ☒ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☒ Other

Provide Details of Other Violation *

Failure to pay twice monthly

Other(Maybe Multiple)

- ☐ Other Violation

Child Labor – Specify Ages

jramirez@haineslawgroup.com

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☒ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

IFP

- ☐ I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information

Billing First Name *

Paul

Billing Last Name *

Haines

Billing Email *

jramirez@haineslawgroup.

Billing Phone

4242922350

Billing Street Name, Number and Suite/Apt *

2155 Campus Drive, Suite 180

Billing City *

El Segundo

Billing State *

California

Billing Zip/Postal Code *

90245

Credit Card Type *

Visa

Credit Card Number *

4154178575546940

CVV Number *

182

Credit Card Expiration Month *

05

mm

Credit Card Expiration Year *

2024

yyyy

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) *

Choose File 2023-01-13 ... LWDA Ltr.pdf

Other Attachment – (if any) (must be a .pdf)

Choose File No file chosen

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

Previous Page

Submit

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Jonathan Ramirez](#)
Subject: State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation
Date: Friday, January 13, 2023 6:07:21 PM

Thank you for your payment.

Order Information

Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-929394-23

Order Number: ORD-000206852

Total:\$75.00

Card Type: Visa

Date: 1/13/2023

Billing Information

Name: Paul Haines

Email: jramirez@haineslawgroup.com

Billing Address:

2155 Campus Drive, Suite 180

El Segundo, California

90245

EXHIBIT D