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SAN FRANCISCO CAMPUS FOR JEWISH LIVING; and
JEWISH HOME AND SENIOR LIVING FOUNDATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

MARK A. FLETCHER, an individual, on
behalf of himself and others similarly
situated,

Plaintiff,

vs.

HEBREW HOME FOR AGED DISABLED,
a California nonprofit corporation; SAN
FRANCISCO CAMPUS FOR JEWISH
LIVING, a California entity form unknown;
JEWISH HOME AND SENIOR LIVING
FOUNDATION, a California nonprofit
corporation; and DOES 1 through 50,

Case No.: CGC-23-603795

CLASS ACTION

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT
AGREEMENT**

Original Complaint Filed: January 4, 2023
First Amended Complaint: March 4, 2023

1 Defendants.

2
3 Subject to the Court's approval, the Parties have entered into a Settlement Agreement
4 pursuant to the terms and conditions in this Joint Stipulation of Class and PAGA Action Settlement
5 Agreement ("Settlement Agreement") between Plaintiff MARK A. FLETCHER (hereinafter
6 "Plaintiff"), on behalf of himself and the Settlement Class, and Defendants HEBREW HOME FOR
7 AGED DISABLED DBA SAN FRANCISCO CAMPUS FOR JEWISH LIVING; JEWISH HOME
8 AND SENIOR LIVING FOUNDATION ("Defendants" or "SFCJL"). The Parties request the Court
9 to enter judgment subject to the Settlement Agreement's terms.

10 **I. DEFINITIONS**

11 1. "Action" or "Lawsuit" shall mean the Complaint entitled *Mark A. Fletcher an*
12 *individual, on behalf of himself and others similarly situated v. Hebrew Home for Aged Disabled, a*
13 *California nonprofit corporation; San Francisco Campus for Jewish Living, a California entity form*
14 *unknown; Jewish Home and Senior Living Foundation, a California nonprofit corporation; and*
15 *Does 1 through 50*, , filed on January 4, 2023, in San Francisco Superior Court and assigned Case
16 No. CGC23603795, and the operative, First Amended Complaint ("FAC") filed on March 4, 2023.
17 Plaintiff further agrees to amend the operative Complaint pending in the Superior Court of the State
18 of California for the County of San Francisco if necessary to add class action allegations and to add
19 causes of action for failure to pay sick pay and provide supplemental COVID leave. Therefore, in
20 the event it is necessary, the "Action" will also include and encompass a Second Amended
21 Complaint if and when it is filed.

22 2. "Class" shall include All non-exempt employees in California who are or previously
23 were employed by Defendants HEBREW HOME FOR AGED DISABLED, SAN FRANCISCO
24 CAMPUS FOR JEWISH LIVING, or JEWISH HOME AND SENIOR LIVING FOUNDATION,
25 ("Defendants") during the Class Period, which is January 4, 2019 through the date of preliminary
26 approval of the Settlement.

27 3. "Class Counsel" means the attorneys of record for the Class Representative and Class
28 Members, *i.e.*, Emil Davtyan, Alvin B. Lindsay and Melissa Rodriguez from D.Law, 880 E

1 Broadway Glendale, CA 91205, and David Yeremian from David Yeremian & Associates, Inc.,
2 535 N. Brand Blvd, Suite 705, Glendale, CA 91203.

3 4. "Class Counsel Award" means an award of attorneys' fees, expenses and costs
4 granted to Class Counsel and paid from the Gross Settlement Amount. The parties have agreed
5 Plaintiff will request approval from the Court of up to \$166,666.67 in attorneys' fees and up to
6 \$15,000 in costs to comprise the Class Counsel Award.

7 5. "Class Data" means a database of information regarding Class Members that
8 Defendants will collect from its electronic records and provide to the Settlement Administrator. The
9 database will contain the following information: (1) the full name, last known address, and full
10 social security number of all Class Members; and (2) the information necessary to determine the
11 estimated settlement allocation to each Class Member, including the number of workweeks worked
12 by each and every Class Member during the relevant Class Period, and the number of qualifying
13 pay periods associated with each PAGA Employee during the PAGA Period.

14 6. "Class Members" means all individuals who are or were employed as non-exempt
15 hourly employees of SFCJL in California at any time during the "Class Settlement Period." A
16 Settlement Class Member is any individual who is a member of the Settlement Class (i.e. one who
17 does not request exclusion from it).

18 7. "Class Settlement Period" shall mean the time period from January 4, 2019 through
19 the date of preliminary approval of the Settlement (i.e. the date the Court enters the Order granting
20 preliminary approval of this Settlement Agreement).

21 8. "Class Representative Service Award" (or "CRSA") is the amount that Class
22 Counsel will request and the Defendant will not oppose and the Court approves as an enhancement
23 award for distribution to Plaintiff as the named Class Representative for the Settlement Class. The
24 amount of the enhancement award will not exceed Ten Thousand Dollars (\$10,000.00) and will be
25 requested in recognition of Plaintiff's efforts and risks in assisting with the prosecution of the Action
26 and in return for executing a release as described below under "Released Claims by Plaintiffs." The
27 CRSA will be requested in addition to and separate from Plaintiff's Individual Settlement Payment.

28

1 9. “Compensable Workweeks” means a reasonable estimate of weeks worked by Class
2 Members during the Class Period based on Defendant’s records and used as a value to calculate
3 Individual Settlement and the Individual PAGA Payments. Compensable workweeks shall include
4 only those weeks an employee was actively employed as a non-exempt employee of Defendant.

5 10. “Complaint” means the operative Complaint on file in this Action.

6 11. “Court” means the Superior Court for the State of California, County of San
7 Francisco.

8 12. “Defendants” means Hebrew Home for Aged Disabled dba San Francisco Campus
9 for Jewish Living; and Jewish Home and Senior Living Foundation (often collectively referred to
10 herein as “SFCJL”). During the course of finalizing the settlement agreement, Defendants began
11 using the business name “The Campus” in addition to San Francisco Campus for Jewish Living.

12 13. “Defense Counsel” or “Counsel for Defendants” shall mean Kurt Bockes and
13 Valentina Wilson of Littler Mendelson, P.C., 101 Second Street, Suite 1000 San Francisco,
14 California 94105.

15 14. “Effective Date of the Settlement and Release” shall be the later of the effective date
16 of the Settlement Agreement (i.e. the date the Order Granting Final Approval and Judgment are
17 entered by the Court) and the date Defendant funds the Qualified Settlement Fund established by
18 the Administrator with the Gross Settlement Amount.

19 15. “Final Approval Order” means the Court’s order granting final approval of the
20 Settlement Agreement. “Final Judgment” means the Court’s final judgment to be entered
21 concurrently with the Final Approval Order.

22 16. Individual Settlement Payment (or “ISP”) means the amount payable from the Net
23 Settlement Amount to each Settlement Class Member. The Net Settlement Amount remaining after
24 deductions from the Gross Settlement Amount will be paid to Settlement Class Members on a *pro*
25 *rata* basis according to the number of workweeks they worked during the Class Settlement Period.

26 17. “Gross Settlement Amount” (or “GSA”) means the maximum sum to be paid by
27 Defendants pursuant to this Settlement Agreement, which shall be no more than Five Hundred
28 Thousand Dollars (\$500,000.00). The GSA will include all payments to be made to Settlement Class

Members, the PAGA Payment, attorneys' fees and costs approved by the Court, the Settlement Administrator (as defined below) costs, and the enhancement award to Named Plaintiff Mark A. Fletcher. In no event shall Defendants be liable for the payment of any amounts exceeding the Gross Settlement Amount with the exception of the employer's share of payroll taxes due and payable as a result of this Settlement. The Gross Settlement Amount will be paid over an extended period of time pursuant to a timeline agreed upon by the Parties. Defendant will pay the settlement payments over a period of twelve (12) months. The payments will be spread out over four quarterly payments. The first payment will be paid within thirty (30) days of the Superior Court Judge approving the settlement (i.e. the date of entry of the Final Approval Order).

18. "Net Settlement Amount" (or "NSA") means the Gross Settlement Amount less Court-approved attorneys' fees, costs, enhancement award to Named Plaintiffs, PAGA Payment, and Settlement Administrator costs.

19. "Notice" means the Notice of Settlement of Class and PAGA Action in a form substantially similar to the form attached as **Exhibit 1** (the "Notice").

20. "Notice Period" means the 45-day period from the mailing of the class settlement Notice for Settlement Class Members to file with the Court their objection to the Settlement or to indicate their decision to opt out of the class portion of the Settlement.

21. "LWDA" means the California Labor and Workforce Development Agency, which is empowered to enforce the Labor Code Private Attorneys General Act, California Labor Code section 2698, *et seq.* ("PAGA"), and it has delegated such authority to Plaintiff with regard to the claims made in this Action through the procedural mechanisms provided for by statute, and it will receive the LWDA portion of the PAGA Allocation.

22. "PAGA" means the California Labor Code Private Attorneys General Act of 2004.

23. "PAGA Payment" refers to the Twenty Thousand Dollars (\$20,000.00) allocated from the Gross Settlement Amount as civil penalties to settle the PAGA claims asserted in the Action. 75% of the PAGA Payment (\$15,000.00) will be payable to the LWDA and the remaining 25% (\$5,000.00) will be payable to the PAGA Employees on a *pro rata* basis. The PAGA

1 Employees shall release the asserted PAGA claim individually and in their capacity representing
2 the State of California and may not opt out of or object to the PAGA release.

3 24. “PAGA Settlement Payment” refers to the amount calculated by the Settlement
4 Administrator to distribute to each member of the Aggrieved Employees from the 25% of the PAGA
5 Payment allocated to individual settlement payments to the PAGA Employees. Any Class Member
6 who opts out of the Settlement Class will nonetheless receive their PAGA Settlement Payment and
7 be bound, to the extent allowed by law, by the LWDA’s release of its claims to PAGA penalties
8 under this Agreement. In light of the binding nature of a PAGA judgment on non-party employees
9 pursuant to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and *Cardenas v. McLane*
10 *Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the definition of a
11 Class Member who exclude themselves from the Settlement shall nonetheless receive a payment for
12 the amount of each such individual’s estimated share of the Aggrieved Employees’ portion of the
13 PAGA Payment and shall have released the PAGA claims.

14 25. “PAGA Employees” means the aggrieved non-exempt employees employed by
15 Defendants who worked at least one pay period during the PAGA Period.

16 26. “PAGA Period” means the time period from January 4, 2022 through the date of
17 entry of the Preliminary Approval Order.

18 27. “Parties” mean Plaintiff and Defendants, collectively, and “Party” shall mean either
19 Plaintiff or Defendants, individually.

20 28. “Payment Ratio” means the respective Qualified Workweeks for each Class Member
21 divided by the total Qualified Workweeks for all Class Members.

22 29. “Plaintiff” shall mean the named Plaintiff in this Lawsuit, Mark A. Fletcher.

23 30. “Preliminary Approval Date” means the date the Court enters an order granting
24 preliminary approval of the Settlement Agreement.

25 31. “Qualified Settlement Fund” means the fund set up by the Settlement Administrator
26 into which the GSA shall be deposited and disbursements from it shall be made. Defendants will
27 fund the Qualified Settlement Fund by quarterly payments over the course of one year following the
28 Final Approval Date until it is fully funded.

1 32. “Qualified Workweeks” means the number of workweeks in which a Class Member
2 performed any work for Defendants in a non-exempt, hourly position during the Class Settlement
3 Period. “Summary of Workweeks and Estimated Payment” is the information that will be included
4 in the Class Notice that is sent to each Class Member that sets forth the number of Compensable
5 Workweeks that Class Member worked as a non-exempt employee for Defendants in California
6 during the Class Period, and the estimated payment he or she will receive.

7 33. “Class Released Claims” means any and all disputes, claims and/or causes of action
8 for wages, statutory and civil penalties (but not PAGA penalties), monies, damages, liquidated
9 damages, premiums, restitution, injunctive and declaratory relief, pre-judgment and post judgment
10 interest, attorney’s fees, and costs pleaded in the Action, Plaintiff’s PAGA Notice Letter to the
11 LWDA, and/or which reasonably relate to or which reasonably arise out of the same set of operative
12 facts pled therein, whether such claims or forms of relief are known or unknown during the
13 Settlement Period. This includes, but is not limited to, any claims for: (1) failure to pay minimum
14 wages under California Labor Code § § 1194, 1194.2, 1197, and the applicable IWC Wage Order;
15 (2) failure to pay wages and overtime under California Labor Code §§ 510, 1194, 1198, 1199, and
16 the applicable IWC Wage Order; (3) meal period liability under California Labor Code §§ 512,
17 226.7, and the applicable IWC Wage Order; (4) Rest Break Liability Under California Labor Code
18 §§ 226.7 and 512 and applicable IWC Wage Order; (5) failure to furnish accurate itemized
19 statements under California Labor Code §§ 226(a) and 226(e); (6) violation of California Labor
20 Code § 221; (7) failure to timely pay wages under California Labor Code §§ 204 and 210 and the
21 applicable IWC Wage Order; (8) failure to pay all wages owed at termination of employment under
22 California Labor Code § § 201, 202, 203, 1199, and the applicable IWC Wage Order; (9) failure to
23 reimburse necessary business expenses under Labor Code § 2802, and the applicable IWC Wage
24 Order; (10) violation of California Business and Professions Code § 17200 *et seq.* (11) failure to
25 maintain records under California Labor Code § 1174; (12) failure to provide paid sick days and
26 COVID-19 supplemental sick leave in violation of California Labor Code §§ 246, 248.1, 248.2, and
27 248.5; and with respect to the statutory and civil penalties claimed in the Action, whether under
28

1 California Labor Code § 558, or otherwise (“Class Released Claims”) against the Released Parties
2 (as defined below).

3 34. “Release Effective Date” means the date when both the Final Approval Order and
4 Judgment have been entered and Defendants have fully funded the Qualified Settlement Fund
5 established by the Administrator with the approved Gross Settlement fund amount (\$500,000).

6 35. “Released Parties” is defined to include Hebrew Home for Aged Disabled dba San
7 Francisco Campus for Jewish Living , Jewish Home and Senior Living Foundation, and any of its
8 or their past, present, and future direct or indirect parents, subsidiaries, affiliates or related entities,
9 holding companies, affiliated companies, partnerships, limited liability companies, as well as each
10 of its or their past, present, and future officers, directors, employees, partners, members, managers,
11 customers, subcontractors, shareholders and agents, attorneys, insurers, reinsurers, and any
12 individual or entity which could be jointly liable with Defendant.

13 36. “PAGA Released Claims” shall mean the release of the Released Parties by the
14 LWDA, State of California, and by Plaintiff as a representative of and proxy for the LWDA from
15 all claims for civil penalties under the Private Attorneys General Act of 2004, Labor Code § 2698
16 *et seq.* (“PAGA”), or otherwise, that were alleged in the PAGA Notice Letter, the Action, and/or
17 claims which reasonably relate to or which reasonably arise out of the same set of operative facts
18 pled therein, whether such claims or forms of relief are known or unknown during the PAGA Period.
19 This includes, but is not limited to: (1) failure to pay minimum wages and failure to pay overtime
20 wages for overtime hours worked under California Labor Code § 226.2, 510 1194(a), 1197, 1198
21 and applicable IWC Wage Order; (2) failure to provide meal-periods and rest-periods under
22 California Labor Code §§ 512, 1198, 226.7, and applicable IWC Wage Order; (3) failure to provide
23 accurate, itemized wage statements and failure to maintain employment records under California
24 Labor Code §§ 226, 1174, 1198.5 and applicable IWC Wage Order; (4) failure to timely pay all
25 wages owed, including semi-monthly and upon separation or termination, under California Labor
26 Code §§ 201, 202, 203, 204, 226.2, 1197.5, 2926, and 2927; (5) failure to reimburse the necessary
27 work related expenses, and Defendant’s unlawful deductions from wages under California Labor
28 Code §§ 221, 1197, 1197.1, 1198, 2802 and applicable IWC Wage Orders; (6) failure to provide

1 paid sick days and COVID-19 supplemental sick leave in violation of California Labor Code §§
2 246, 248.1, 248.2, 248.5; and (7) background check violations pursuant to California Labor Code §
3 1024.5.

4 a. Upon the Effective Date of the Settlement Agreement, and following the final
5 payment to fully fund the Qualified Settlement Fund, the effective date of the PAGA Released
6 Claims will occur when the Administrator receives the final installment payment from Defendants
7 to fully fund the Qualified Settlement Fund.

8 37. “Request for Exclusion” refers to a formal request to be excluded from the Settlement
9 Agreement as described in the “Requests for Exclusion” section herein. PAGA Employees cannot
10 exclude themselves from the PAGA Released Claims and will instead automatically receive their
11 pro-rata share of 25% of the PAGA Payment.

12 38. “Response Deadline” means the date forty-five (45) days after the Settlement
13 Administrator mails Notices to Class Members, and the last date on which Class Members may
14 submit requests for exclusion or objections to the Settlement Agreement.

15 39. “Settlement Agreement” means this Joint Stipulation of Class Action and PAGA
16 Settlement Agreement.

17 40. “Settlement Administrator” means Apex Class Action (“Apex”), and Apex has
18 provided a not to exceed quotation for \$16,000.00 to complete Settlement Administration, including
19 mailing the Class Notices and establishing and maintaining a Qualified Settlement Fund throughout
20 administration and during the installment payment and funding and distribution processes, as well
21 as other obligations and tasks discussed below.

22 41. “Settlement Class” or “Settlement Class Members” (or “SCM”) means individuals
23 who are or were employed as non-exempt hourly employees of SFCJL in California during the Class
24 Settlement Period and does not request exclusion from it.

25 **II. RECITALS**

26 42. Class Certification. The Parties stipulate and agree to certification of a “Settlement
27 Class” for the purposes of this Settlement Agreement only. In the event the Settlement Agreement
28 is terminated or does not obtain court approval, class certification shall be vacated and the

1 Settlement Class shall be immediately decertified. The Parties stipulation to class certification as
2 part of the Settlement Agreement shall not be considered in connection with the issue of whether a
3 class should be certified in this lawsuit or any lawsuit. Except as otherwise discoverable, neither this
4 Settlement Agreement nor any ancillary documents, actions, statements, or filings in furtherance of
5 settlement (including all matters associated with the mediation) shall be admissible or offered into
6 evidence in the Lawsuit or any other action for any purpose whatsoever.

7 43. Procedural History. On January 4, 2023, Plaintiff filed a putative class action
8 Complaint asserting claims against the Defendants, including claims for (1) Failure to Pay Minimum
9 Wages and All Hours Worked; (2) Failure to Pay Wages and Overtime Under Labor Code § 510;
10 (3) Meal Period Liability Under Labor Code § 226.7; (4) Rest Break Liability Under Code § 226.7;
11 (5) Violation of Labor Code § 226(a); (6) Violation Labor Code § 221; (7) Violation Labor Code §
12 204; (8) Violation of Labor Code § 203; (9) Failure to Reimburse Necessary Business Expenses
13 under Labor Code § 2802; and (10) Violation of California Business and Professions Code § 17200
14 *et seq.* On or about March 4, 2023 Plaintiff filed the FAC alleging the same claims in the original
15 Complaint, and adding claims for civil penalties under the California Labor Code Private Attorneys
16 General Act of 2004, Labor Code § 2698 *et seq.*, that reasonably could have been premised on the
17 facts, claims, and legal theories alleged in the Complaint and in the FAC. The Lawsuit was filed in
18 San Francisco Superior Court.

19 44. Voluntary Exchange of Information. Before mediation, Plaintiff and Defendant
20 engaged in a voluntary exchange of information concerning the claims and defenses set forth in the
21 Action.

22 45. Mediation. On August 3, 2023, the Parties participated in a private mediation with
23 Hon. Howard R. Broadman, a mediator with considerable experience mediating wage and hour class
24 actions. This took place only after the Parties exchanged extensive informal information, documents,
25 and data. At the conclusion of the mediation, Judge Broadman proposed a proposal of \$500,000.
26 The following week, the parties agreed to the proposal of \$500,000 as to the class and PAGA
27 settlement and further agreed to a Memorandum of Understanding memorializing the general terms
28 of this Settlement Agreement. Plaintiff also agreed to modify the operative Complaint pending in

1 the Superior Court of the State of California for the County of San Francisco to add class allegations
2 and to add failure to pay sick pay and provide supplemental COVID leave as causes of action.

3 46. Benefits of Settlement Agreement to Settlement Class Members. Plaintiff and Class
4 Counsel recognize the expense and length of continued proceedings necessary to litigate their
5 disputes through trial and potential appeals. Plaintiff has also taken into account the uncertainty and
6 risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation.
7 Plaintiff and Class Counsel are also aware of the burdens of proof necessary to establish liability for
8 the claims asserted in the Lawsuit, both generally and in response to Defendants' defenses, and the
9 difficulties in establishing damages for the Class Members. Thus, Plaintiff and Class Counsel have
10 determined that the terms set forth in this Settlement Agreement are fair, adequate, and reasonable,
11 and in the best interests of the SCMs.

12 47. Defendants' Reasons for Settlement Agreement. Defendants have concluded that
13 further defense of this litigation would be protracted and expensive for all Parties. Substantial
14 amounts of Defendants' time and resources have been and, unless this Settlement Agreement is
15 made, will continue to be devoted to the defense of the claims asserted by Plaintiff and the putative
16 Class Members. Defendants have also taken into account the risks of further litigation in reaching
17 its decision to enter into this Settlement Agreement. Although Defendants continue to contend that
18 they are not liable for any of Plaintiff's claims, Defendants have agreed to settle along the terms set
19 forth in this Settlement Agreement and fully resolve the Lawsuit.

20 48. Class Members' Claims. The Class Representative claims that his allegations have
21 merit in regards to the putative Class Members. This Settlement Agreement is a compromise of
22 disputed claims. Nothing in this Settlement Agreement or its exhibits, and no action taken to carry
23 out this Settlement Agreement may be construed or used as an admission by or against the putative
24 Class Members or Class Counsel as to the merits of the claims asserted.

25 49. Defendants' Defenses. Defendants claim that the Released Claims have no merit.
26 This Settlement Agreement is a compromise of disputed claims. Nothing in this Settlement
27 Agreement or its exhibits, and no action taken to carry out this Settlement Agreement may be
28 construed or used as an admission by or against Defendants as to the merits of the claims asserted.

1 **III. TERMS OF SETTLEMENT AGREEMENT**

2 50. Settlement Agreement Consideration by Defendants. Defendants shall pay the GSA,
3 which shall fund the Individual Settlement Payments, the Class Representative Service Award, the
4 Class Counsel Award, PAGA Payment, and the Settlement Administrator Costs, as specified in this
5 Agreement. In no event shall Defendants be liable for the payment of any amounts exceeding the
6 GSA with the exception of the employer's share of payroll taxes due and payable as a result of this
7 Settlement.

8 51. Release by All Settlement Class Members. Upon the Effective Date, each Class
9 Member (including Plaintiff) who does not timely submit a valid Request for Exclusion, shall, for
10 the Class Period, on behalf of themselves and their respective former and present representatives,
11 agents, attorneys, heirs, administrators, successors, and assigns, fully release and forever discharge
12 the Released Parties from the Class Released Claims.

13 52. General Release of Claims By Plaintiff. In addition to release of the Settlement Class
14 Members' Released Claims, Plaintiff and all persons purporting to act on Plaintiff's behalf or
15 purporting to assert a claim under or through him shall be deemed to have fully, finally, and forever
16 released, settled, compromised, relinquished and discharged any and all of the Released Parties of
17 and from any and all claims, known or unknown, asserted and unasserted, that he has or may have
18 had against Defendants or any of the Released Parties from the beginning of time through the date
19 Plaintiff signs the Settlement Agreement, including, but not limited to, any claims concerning
20 Plaintiff's employment and/or the termination of his employment with Defendants, any claims for
21 wages, bonuses, severance pay, employment benefits, stock options, violation of any personnel
22 policy, any claims based on discrimination, harassment, unlawful retaliation, reasonable
23 accommodation, violation of public policy, wrongful termination, credit checks, or damages of any
24 kind whatsoever, arising out of any common law torts, contracts, express or implied, any covenant
25 of good faith and fair dealing, any theory of wrongful discharge, any theory of negligence, any
26 theory of retaliation, any legal restriction on any affiliated entity's right to terminate the employment
27 relationship, or any federal, state, local, or other governmental statute, executive order, regulation
28 or ordinance, or common law, or any other basis whatsoever, to the fullest extent provided by law.

1 Named Plaintiff shall be deemed to have, and by operation of the final approval of the Settlement
2 by the Court shall have, expressly waived, and relinquished to the fullest extent permitted by law
3 the provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar
4 provision under federal or state law that purports to limit the scope of a general release. Plaintiff,
5 for himself, has read Section 1542 of the Civil Code of the State of California, which provides as
6 follows:

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

12 Plaintiff understands that Section 1542 gives the right not to release existing claims of which he is
13 not now aware, unless Plaintiff voluntarily chooses to waive this right. Having been so apprised,
14 Plaintiff nevertheless voluntarily waives the rights described in Section 1542 and elects to assume
15 all risks for claims that now exist in his favor, known or unknown. The release of the claims of
16 Plaintiff is a condition precedent to enforcement of this Settlement Agreement.

17 53. Plaintiff understands he has at least 5 business days from the date he receives this
18 Agreement to consider the terms of this Agreement, including whether to sign this Agreement
19 (“Consideration Period”). If Plaintiff chooses to sign this Agreement before the Consideration
20 Period ends, Plaintiff represents that it is because he freely chose to do so after carefully considering
21 its terms. Plaintiff acknowledges that he has read and fully understand the terms of this Agreement.
22 Defendants advise Plaintiff, in writing, to consult with an attorney of his choice regarding the terms
23 of this Agreement prior to signing this Agreement.

24 54. This Agreement, including the General Release by Plaintiff shall not apply to claims
25 for workers’ compensation benefits, unemployment insurance benefits, pension or retirement
26 benefits, or any other claim or right that as a matter of law cannot be waived or released. Moreover,
27 regardless of whether or not Plaintiff signs this Agreement, nothing in any Defendant agreement,
28 policy, or practice, including this Agreement (i) limits or affects Plaintiffs’ right to challenge the

1 validity of this Agreement under the ADEA or the Older Worker Benefit Protection Act (OWBPA),
2 (ii) prevents Plaintiff from communicating with, filing a charge or complaint with; providing
3 documents or information voluntarily or in response to a subpoena or other information request to;
4 or from participating in an investigation or proceeding conducted by the Equal Employment
5 Opportunity Commission, National Labor Relations Board, the Securities and Exchange
6 Commission, the Occupational Safety and Health Administration, law enforcement, or any other
7 any federal, state or local agency charged with the enforcement of any laws, or from testifying,
8 providing evidence, responding to a subpoena or discovery request in court litigation or arbitration,
9 or (iii) prevents a non-management, non-supervisory employee from engaging in protected
10 concerted activity under Section 7 of the NLRA or under similar state law such as joining, assisting,
11 or forming a union, bargaining, picketing, striking, or participating in other activity for mutual aid
12 or protection, or refusing to do so; this includes using or disclosing information acquired through
13 lawful means regarding wages, hours, benefits, or other terms and conditions of employment, except
14 where the information was entrusted to the employee in confidence by the Defendant as part of the
15 employee's job duties. In addition, nothing in this Agreement shall be construed to prevent the
16 disclosure of factual information related to any acts of sexual assault, sexual harassment, workplace
17 harassment or discrimination, failure to prevent an act of workplace harassment or discrimination,
18 or act of retaliation against a person for reporting harassment or discrimination related to the case,
19 prevents Plaintiff from discussing or disclosing information about unlawful acts in the workplace,
20 such as harassment or discrimination or any other conduct that Plaintiffs have reason to believe is
21 unlawful; or waive Plaintiff's right to testify in an administrative, legislative, or judicial proceeding
22 concerning alleged criminal conduct or alleged sexual harassment on the part of the Defendant, or
23 on the part of the agents or employees of the Defendant, when Plaintiff has been required or
24 requested to attend such a proceeding pursuant to a court order, subpoena, or written request from
25 an administrative agency or the legislature. In addition, nothing in this Agreement limits or affects
26 Plaintiff's right to disclose or discuss sexual harassment or sexual assault disputes. By signing this
27 Agreement Plaintiff is waiving his right to recover any individual relief (including any backpay,
28 frontpay, reinstatement or other legal or equitable relief) in any charge, complaint, or lawsuit or

1 other proceeding brought by Plaintiff or on Plaintiff's behalf by any third party, except for any right
2 Plaintiff may have to receive a payment or award from a government agency (and not the
3 Defendants) for information provided to the government agency or where otherwise prohibited.

4 55. PAGA Release. Upon the Effective Date, the Labor Workforce Development
5 Agency, State of California, and Plaintiff as a representative of and proxy for the LWDA, are
6 deemed to release, on behalf of themselves and their respective former and present representatives,
7 agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the
8 PAGA Released Claims.

9 56. Conditions Precedent: This Settlement Agreement will become final and effective
10 only upon the occurrence of all of the following events:

11 a. The Court enters an order granting preliminary approval of the Settlement
12 Agreement;

13 b. The Court enters an order granting final approval of the Settlement Agreement and
14 a Final Judgment;

15 c. The Final Effective Date occurs; and

16 d. Defendants do not invoke their right to revoke the Settlement Agreement as
17 described herein ("Option to Revoke or Modify Settlement Agreement").

18 56. Nullification of Settlement Agreement: Subject to the obligation(s) of mutual full
19 cooperation set out in this Settlement Agreement, either Party may terminate this Settlement if after
20 submitting to settle any Court declines to enter the preliminary approval order, the final approval
21 order, or judgment in substantially the form submitted by the Parties, or if the Stipulation of
22 Settlement as agreed otherwise does not become final. The terminating Party shall give to the other
23 Party (through its/his counsel) written notice of its/his decision to terminate no later than fourteen
24 (14) calendar days after receiving notice that one of the enumerated events has occurred.
25 Termination shall have the following effects:

26 a. The MOU and this Settlement Agreement shall be terminated and shall have no force
27 or effect, and no Party shall be bound by any of its terms.

1 b. In the event the Settlement Agreement is terminated, Defendants shall have no
2 obligation to make any payments to any party, class member, or attorney.

3 c. The order approving the filing of the Amended Complaint, the preliminary approval
4 Order, the final approval order, and judgment, including any order of class certification, shall be
5 vacated.

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

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

13 57. Certification of the Settlement Class. The Parties stipulate to conditional class
14 certification of the Settlement Class for the Class Settlement Period for purposes of the Settlement
15 Agreement only, and to agree that Plaintiff Mark A. Fletcher shall be appointed as Class
16 Representative, and that D.Law, Inc. and David Yeremian & Associates, Inc. shall be appointed
17 Class Counsel. Defendant contends that the facts do not justify class certification under the
18 governing legal standards. The trial court has not ruled on class certification in the underlying
19 litigation. Consequently, a “Settlement Class” has been established for purposes of administration
20 and resolution of this matter only. It is not, and it should not be construed as, any admission of fact
21 or law in this matter or any other matter that class certification is appropriate. If the Court does not
22 grant either preliminary or final approval of this settlement, then the parties revert to their previous
23 positions and Defendants will not stipulate to class certification.

24 58. Tax Liability. The Parties make no representations as to the tax treatment or legal
25 effect of the payments called for hereunder, and SCMs are not relying on any statement or
26 representation by the Parties in this regard. SCMs understand and agree that they will be responsible
27 for the payment of any taxes and penalties assessed on the ISPs or PAGA Payments they receive,
28

1 and that they will be solely responsible for any penalties or other obligations resulting from their
2 personal tax reporting of their ISPs and PAGA Payments.

3 59. Circular 230 Disclaimer. Each Party to this Settlement Agreement acknowledges
4 and agrees that no provision of this Settlement Agreement, and no written communication or
5 disclosure between the Parties or their attorneys, was intended to be relied upon as tax advice within
6 the meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended); and
7 that each Party has relied exclusively on their own, independent legal and tax counsel for advice
8 (including tax advice) in connection with this Settlement Agreement; and that each Party is not
9 entitled to rely upon any communication or disclosure by any attorney or advisor to avoid any tax
10 penalty.

11 60. Preliminary Approval Motion. Plaintiff will move the Court to grant preliminary
12 approval of this class action Settlement for settlement purposes only, certifying the Settlement Class
13 for settlement purposes only, and setting a date for a final approval hearing. Both Parties agree to
14 work diligently and cooperatively to have this matter presented to the Court for preliminary approval
15 as efficiently as possible.

16 61. Settlement Administrator. By accepting the role as Settlement Administrator, the
17 Settlement Administrator is bound to all of the terms, conditions and obligations described in this
18 Settlement Agreement. Among these obligations, the Settlement Administrator shall have sole and
19 exclusive responsibility for:

20 a. Calculating the Qualified Workweeks, Payment Ratio, and the ISP for each
21 Settlement Class Member, and the PAGA Settlement Payment for each PAGA Employee;

22 b. processing and mailing payments to the Class Representative, Class Counsel,
23 LWDA, PAGA Employees and SCMs;

24 c. printing and mailing the Notices to the Class Members as directed by the Court;

25 d. receiving and reporting objections, opt outs, Requests for Exclusion, and Notices of
26 Objection;

27 e. deducting all legally required taxes from the ISPs and distributing tax forms;
28

1 f. processing and mailing any tax payments to the appropriate state and federal taxing
2 authorities;

3 g. providing declaration(s) as necessary in support of preliminary and/or final approval
4 of this Settlement Agreement;

5 h. and other tasks that the Parties mutually agree on, or the Court orders the Settlement
6 Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of
7 the performance of its duties. Defendants and Defense Counsel shall have no responsibility for
8 validating or ensuring the accuracy of the Settlement Administrator's work. Plaintiff, Class Counsel,
9 Defendants and Defense Counsel shall not bear any responsibility for errors or omissions in the
10 calculation or distribution of the ISPs or any other distribution of monies contemplated by this
11 Settlement Agreement.

12 62. Notice Procedure.

13 a. Class Data. The Settlement Administrator shall not provide the Class Data to Class
14 Counsel or Plaintiff or any third party, or use the Class Data or any of its information for any purpose
15 other than to administer this Settlement Agreement. Defendants shall provide the Settlement
16 Administrator with the Class Data to prepare and mail the Notices to the Class Members. This shall
17 take place within thirty (30) calendar days after the Preliminary Approval by the Court of a stipulated
18 settlement.

19 b. Notices.

20 i. The Notice of Class Action and PAGA Settlement mailed out to Class
21 Members (the "Notice") shall be in a form substantially similar to the form
22 attached as Exhibit 1. The Notice shall inform Class Members to notify the
23 Settlement Administrator of their current mailing address where the ISP
24 should be mailed following the Effective Date. The Notice shall include the
25 release to be given by each SCM in exchange for the ISP.

26 ii. The Notice shall also provide each Class Member's starting and ending dates
27 of employment in a class position during the Class Settlement Period, the
28 number of Qualified Workweeks calculated by the Settlement Administrator,

1 and the Settlement Administrator's calculation of each Class Member's
2 estimated ISP.

3 iii. The Notice's mailing envelope shall include the following language:
4 "IMPORTANT LEGAL DOCUMENT- YOU MAY GET MONEY FROM
5 A CLASS ACTION SETTLEMENT AGREEMENT; A PROMPT REPLY
6 IS REQUIRED TO PRESERVE YOUR RIGHTS."

7 c. Notice By First Class U.S. Mail. No later than fourteen (14) calendar days after
8 receiving the Class Data from Defendants as provided herein, the Settlement Administrator shall
9 mail copies of the Notice to all Class Members via regular First Class U.S. Mail. The Settlement
10 Administrator shall exercise its best judgment to determine the current mailing address for each
11 Class Member.

12 d. Undeliverable Notices. Any Notices returned to the Settlement Administrator as
13 non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address
14 affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly
15 attempt to determine a correct address by lawful use of skip-tracing, or other search using the name,
16 address and/or Social Security number of the Class Member involved. One supplemental class
17 settlement notice will be mailed to each member of the Settlement Class whose notice is returned to
18 the Settlement Administrator within (5) calendar days of the initial mailing of the notices by the
19 Settlement Administrator, or other such notice as ordered by the Court. If any Notices sent to Class
20 Members currently employed by Defendants are returned to the Settlement Administrator as non-
21 delivered and no forwarding address is provided, the Settlement Administrator shall notify
22 Defendants. Defendants will request that the currently employed Class Member provide a corrected
23 address to the Defendants to forward to the Settlement Administrator. Class Members who received
24 a re-mailed Notice shall have their Response Deadline extended fifteen calendar (15) days from the
25 original Response Deadline.

26 e. Disputes Regarding ISPs. Class Members will have the opportunity, should they
27 disagree with the estimated number of Qualified Workweeks stated on their Notice, to provide
28 documentation and/or an explanation to show contrary employment dates. If there is a dispute, the

1 Settlement Administrator will consult with the Parties to determine whether an adjustment is
2 warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any
3 ISP under the terms of this Settlement Agreement, and that determination shall be binding upon the
4 Class Member and the Parties.

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

10 g. Requests for Exclusion.

11 i. The Notice shall include an explanation that Class Members who wish to
12 exclude themselves from the Settlement Agreement are required to submit a
13 written Request for Exclusion by the Response Deadline. The written
14 Request for Exclusion must state that the Class Member wishes to exclude
15 himself or herself from the Settlement Agreement and (1) must contain the
16 name, address, and the last four digits of the Social Security number and/or
17 Employee ID number of the person requesting exclusion; (2) must be signed
18 by the Class Member; (3) must be postmarked by the Response Deadline and
19 returned to the Settlement Administrator at the specified address; and (4)
20 should identify this action somehow as *Mark A. Fletcher v. Hebrew Home*
21 *for Ages Disabled, et al.* Case No. CGC-23-603795, filed in the Superior
22 Court of California, County of San Francisco.

23 ii. The Request for Exclusion will not be valid if it is not timely submitted, or if
24 it is not signed by the Class Member, or if it does not contain the name and
25 address of the Class Member. The date of the postmark on the return mailing
26 envelope for the Request for Exclusion shall be the exclusive means used to
27 determine whether the Request for Exclusion was timely submitted. Class
28 Members who fail to submit a valid and timely written Request for Exclusion

1 on or before the Response Deadline shall be Settlement Class Members
2 (“SCMs”) who are bound by all terms of the Settlement Agreement, and any
3 final judgment entered in this Lawsuit, if the Settlement Agreement is
4 approved by the Court.

5 iii. Any Class Member who requests to be excluded from the Settlement
6 Agreement will not be entitled to any recovery under the Settlement
7 Agreement and will not be bound by its terms or have any right to object,
8 appeal or comment on it. Nothing in this Settlement Agreement can be
9 construed as a waiver of any defense that Defendants or the Released Parties
10 have or could assert against anyone who timely serves a Request for
11 Exclusion. Class Members who are also PAGA Employees are not able to
12 request exclusion from the PAGA Payment and they will release the Released
13 PAGA Claim whether they opt-out of the Settlement or not.

14 iv. No later than five (5) calendar days after the Response Deadline, the
15 Settlement Administrator shall provide counsel for the Parties with a final list
16 of the Class Members who have timely submitted written Requests for
17 Exclusion.

18 v. At no time shall any of the Parties or their counsel seek to solicit or otherwise
19 encourage Class Members to submit Requests for Exclusion from the
20 Settlement Agreement.

21 h. Objections.

22 i. The Notice shall state that SCMs who wish to object to the Settlement
23 Agreement should mail to the Settlement Administrator a written statement
24 of objection (“Notice of Objection”) by the Response Deadline. The
25 postmark date of the mailing shall be deemed the exclusive means for
26 determining that a Notice of Objection was served timely.

27 ii. SCMs who submit a timely Notice of Objection will have a right to appear at
28 the Final Approval/Settlement Agreement Fairness Hearing in order to have

1 their objections heard by the Court. The Notice of Objection should be signed
2 by the SCM and state the case name and number, the name and address of the
3 SCM, the last four digits of the SCM's Social Security number and/or
4 Employee ID number, the basis for the objection, and if the SCM intends to
5 appear at the Final Approval/Settlement Agreement Fairness Hearing. Class
6 members may also object by appearing at the final approval hearing and
7 presenting their objections.

8 iii. At no time shall any of the Parties or their counsel seek to solicit or otherwise
9 encourage SCMs to object to the Settlement Agreement or appeal from the
10 Order and Final Judgment.

11 iv. Class Members who submit a written Request for Exclusion are not entitled
12 to object to the Settlement Agreement.

13 v. The Settlement Administrator shall send all objections to Class Counsel and
14 Defense Counsel. Class Counsel will be responsible for filing the Notices of
15 Objection with the Court in advance of the Final Approval Hearing. Plaintiff
16 and/or Defendants may file oppositions to Notices of Objection no later than
17 nine (9) court days prior to the date of the Final Approval/Settlement
18 Agreement Fairness Hearing.

19 vi. Defendants shall not be responsible for the fees, costs, or expenses incurred
20 by Plaintiff, Class Counsel, or SCMs arising from or related to any objection
21 to the Settlement Agreement or related to any appeals thereof.

22 63. Funding and Allocation of the Gross Settlement Amount. Upon satisfaction of the
23 preconditions described in this Settlement Agreement, and pursuant to the timeline and instructions
24 below, Defendants will deposit the GSA into a Qualified Settlement Fund to be established by the
25 Settlement Administrator.

26 64. Funding Due Date.

27 a. The Settlement Administrator shall set up a Qualified Settlement Fund and Account
28 ("QSA") which Defendants shall have the option of making payments into towards the GSA prior

1 to the due date for those payments. Any portion of the GSA which remains unpaid as of entry of the
2 Order granting final approval will be paid over a period of twelve (12) months. The payments will
3 be spread out over four quarterly payments. The first payment will be paid within thirty (30) days
4 of the entry of the Final Approval Order. Any interest which accrues on the GSA sums paid into the
5 QSA prior to distribution by the Settlement Administrator will become part of the NSA.

6 b. Individual Settlement Payments. ISPs shall be paid from the NSA and shall be paid
7 pursuant to the following formula:

8 i. Calculation of Individual Settlement Payments (“ISPs”). Using the Class
9 Data, the Settlement Administrator will calculate the total Qualified
10 Workweeks for all SCMs. The respective Qualified Workweeks for each
11 SCM will be divided by the total Qualified Workweeks for all SCMs,
12 resulting in the Payment Ratio for each individual SCM.

13 ii. Each SCM’s Payment Ratio will then be multiplied by the NSA to calculate
14 each SCM’s estimated ISP. The ISP will be provided only to the individual
15 SCM. Each ISP will be reduced by any legally mandated employee tax
16 withholdings (e.g., employee payroll taxes, etc.). Each Settlement Class
17 Member’s Individual Payment shall be treated as wages, penalties, liquidated
18 damages, and interest, with wages not to exceed 20% and penalties,
19 liquidated damages, and interest not to exceed 80%.

20 iii. Calculation of PAGA Payments: The parties have allocated \$20,000 to the
21 PAGA Payment, with \$15,000 (75% of the allocated PAGA Payment) being
22 paid to the California Labor and Workforce Development Agency, and
23 \$5,000 (25% of the allocated PAGA Payment) will remain in the NSA and
24 be distributed as described in this Settlement Agreement. The PAGA
25 Individual Payment paid to each of the PAGA Employees shall be calculated
26 by dividing 25% of the approved PAGA Payment by the number of Qualified
27 Workweeks for all PAGA Employees during the PAGA Period and then
28 multiplying the result by the number of Qualified Workweeks for each PAGA

1 Employee during the PAGA Period. Even if a Settlement Class member
2 determines to opt out of the Settlement, they will receive their pro rata portion
3 of the \$5,000 employee component of the PAGA Payment, as aggrieved
4 employees cannot opt-out of the PAGA penalty claim. *See, e.g., Robinson v*
5 *So. County Oil* (2020) 53Cal.App.476).

6 iv. Tax Allocation. For tax purposes, each ISP shall be allocated as follows:
7 20% as wages subject to IRS Form W-2 reporting and applicable
8 taxes/withholdings, and 80% as penalties, liquidated damages, and interest
9 for which an IRS Form 1099 will be issued.

10 v. Mailing. After the Effective Date of the Settlement occurs, and after
11 Defendants have made the final installment payment to the Qualified
12 Settlement Fund/QSA to fully fund it with the Gross Settlement Amount, then
13 within fifteen (15) calendar days of that final funding date, the Administrator
14 will mail ISPs by regular, First Class, U.S. Mail to each SCM.

15 vi. Uncashed Checks. All funds represented by uncashed checks remaining in
16 the Net Settlement Amount shall be distributed to the Controller of the State
17 of California to be held pursuant to the Unclaimed Property Law, California
18 Civil Code § 1500, *et seq.*, for the benefit of those Settlement Class Members
19 who did not cash their checks until such time that they claim their property.
20 The Parties agree that this disposition results in no “unpaid residue” under
21 California Civil Procedure Code § 384, as the entire Net Settlement Amount
22 will be paid out to Settlement Class Members, whether or not they all cash
23 their Settlement Checks. Therefore, Defendants will not be required to pay
24 any interest on such amounts.

25 c. Class Representative Service Award (“CRSA”).

26 i. Defendants agree not to oppose or object to a Class Representative Service
27 Award of up to ten thousand dollars (\$10,000) to Plaintiff from the GSA for
28 his efforts in prosecuting the Action and obtaining the Settlement on behalf

1 of the Class, the State of California, and PAGA Employees. The Parties agree
2 that Plaintiff's release under the Settlement will include a full general release
3 with California Civil Code Section 1542 waiver, in exchange for the
4 enhancement award.

5 ii. The Settlement Administrator shall pay the CRSA to Plaintiff from the GSA
6 no later than fifteen (15) calendar days after the Effective Date. Any portion
7 of the requested CRSA that is not awarded to the Class Representative shall
8 become part of the NSA.

9 iii. The Settlement Administrator shall issue an IRS Form 1099 - MISC to
10 Plaintiff for the CRSA. Plaintiff shall be solely and legally responsible to pay
11 any and all applicable taxes on the CRSA and shall hold harmless Defendants
12 and the Released Parties from any claim or liability for taxes, penalties, or
13 interest arising as a result of the CRSA.

14 iv. If the Court reduces or does not approve the requested CRSA, Plaintiff shall
15 not have the right to revoke the Settlement Agreement, which shall remain
16 binding.

17 d. Class Counsel Award.

18 i. In consideration for settling the Lawsuit and for all Released Claims to the
19 Released Parties, as well as the General Release of claims by Plaintiff, Class
20 Counsel intends to apply for an award of attorneys' fees not to exceed one-
21 third of the GSA (\$166,666.67), including any interest, plus reasonable
22 costs/expenses not to exceed fifteen thousand dollars (\$15,000), from the
23 GSA. Any reduction by the court of Class Counsel's requested attorney's fees
24 and/or reasonable costs/expenses shall not be sufficient grounds to void the
25 Settlement.

26 ii. Class Counsel, Plaintiff and the SCMs will not apply to the Court for any
27 additional payment of attorney fees and costs, or for an increase in the GSA.
28 The Parties agree that, over and above the Court-approved Class Counsel

Award, each of the Parties, including all SCMs, shall bear their own fees and costs, including, but not limited to, those related to the investigation, filing, or prosecution of the Lawsuit; the negotiation, execution, or implementation of this Settlement Agreement; and/or the process of obtaining, administering, or challenging an Order Granting Preliminary Approval and/or Final Approval.

iii. Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the NSA and shall be distributed to SCMs as provided in this Settlement Agreement.

iv. The Settlement Administrator shall pay the Class Counsel Award to Class Counsel from the GSA no later than fifteen (15) calendar days after the Effective Date.

v. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the Class Counsel Award. The Settlement Administrator shall issue an IRS Form 1099 - MISC to Class Counsel for the payment.

vi. In the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiff and Class Counsel shall not have the right to void the Settlement Agreement and the Settlement Agreement will remain binding.

e. PAGA Payment. Twenty Thousand Dollars (\$20,000) shall be allocated from the GSA shall be allocated as civil penalties to settle the PAGA claims asserted. The Settlement Administrator shall pay seventy-five percent (75%) of the \$20,000 payment, or \$15,000, to the California Labor and Workforce Development Agency (the "PAGA Payment") no later than twenty-five (25) calendar days after the Effective Date. Twenty-five (25%) of the remaining amount of the \$20,000 payment, or \$5,000, will be payable to the PAGA Employees. The PAGA Employees shall release the PAGA Released Claims and may not opt out of or object to the PAGA settlement.

f. Settlement Administrator Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement Agreement from the MSA. The Settlement Administrator,

1 Apex, has provided a not to exceed quotation for administration for sixteen thousand dollars
2 (\$16,000). The Settlement Administrator shall be paid the Settlement Administrator Costs no later
3 than fifteen (15) calendar days after Defendants provide the full GSA amount to the Settlement
4 Administrator for disbursement under this Settlement Agreement.

5 60. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
6 accomplish the terms of this Settlement Agreement, including but not limited to, the execution of
7 necessary documents and to take such other action as may be reasonably necessary to implement
8 the terms of this Settlement Agreement. As soon as practicable after execution of this Settlement
9 Agreement, Class Counsel shall, with the assistance and cooperation of Defendants and Defense
10 Counsel, take all necessary steps to secure the Court's Preliminary and Final Approval of this
11 Settlement Agreement. The Parties also agree to cooperate in the Settlement Administrator process.
12 The Parties each represent they do not have any financial interest in the Settlement Administrator
13 or otherwise have a relationship with the Settlement Administrator that could create a conflict of
14 interest. Class Counsel will also notify Defense Counsel if subpoenaed or upon receipt of any other
15 request for documents or information regarding any other lawsuit filed, or potential lawsuit, against
16 the Released Parties that covers or includes any SCMs and the Released Claims.

17 61. Preliminary Approval Hearing. Plaintiff shall obtain a hearing before the Court to
18 request the preliminary approval of the Settlement Agreement, and the setting of a date for a Final
19 Approval/Settlement Agreement Fairness Hearing. The Preliminary Approval Order shall provide
20 for the Notice of Class Action and PAGA Settlement to be sent to all Class Members as specified
21 herein. In conjunction with the Preliminary Approval Hearing, Plaintiff shall submit this Settlement
22 Agreement and the proposed Notice.

23 62. Final Approval Motion. At the earliest practicable time following the expiration of
24 the Response Deadline, Plaintiff shall file with the Court a Motion for Order Granting Final
25 Approval and Entering Judgment, requesting final approval of the Settlement Agreement and a
26 determination of the amounts payable for the CRSA, the Class Counsel Award, the PAGA Payment,
27 and the Settlement Administrator Costs.

1 a. Declaration by Settlement Administrator. The Settlement Administrator shall submit
2 a declaration in support of Plaintiff's motion for final approval of this Settlement Agreement
3 detailing the number of Notices mailed and re-mailed to Class Members, the number of
4 undeliverable Notices, the number of timely requests for exclusion, the number of Notices of
5 Objections received, the amount of the average, highest, and lowest ISP, the Settlement
6 Administrator Costs, and any other information as the Parties mutually agree on, or that the Court
7 orders the Settlement Administrator to provide.

8 b. Final Approval Order and Judgment. The Parties shall present an Order Granting
9 Final Approval of Class Action and PAGA Settlement Agreement to the Court for its approval, and
10 Judgment thereon consistent with the terms and conditions of this Settlement Agreement.

11 63. Option to Revoke or Modify Settlement Agreement.

12 a. Defendants represent that, as of November 28, 2023, there are 1,452 current and
13 former employees who satisfy the Class member definition. If 10% or more of that number of
14 Settlement Class Members timely opt out of the class portion of the Settlement, Defendant shall
15 have the sole and absolute discretion to rescind/void the Settlement Agreement within twenty (20)
16 days after receiving from the Settlement Administrator the final list of opt-outs. Defendant agrees
17 to meet and confer in good faith with Class Counsel before rescinding or voiding the Settlement
18 Agreement. If Defendant chooses to terminate the Settlement Agreement under this provision, it
19 shall be responsible to pay the Settlement Administrator's fees and costs incurred to that point.

20 b. Defendant represents that, as of November 28, 2023, there are 1,452 current and
21 former employees who satisfy the Class member definition. If it is determined that the number of
22 Class Members exceeds 1,598 as of the filing of the initial motion for preliminary approval of
23 the Settlement (i.e. a 10% increase), then, at its option, Defendant may elect to (a) increase the
24 Gross Settlement Amount by the same number of percentage points above 10% by which the
25 actual number of Class Members exceeds 1,598 (for example, if such increase in Class Members
26 is 15% over 1,452 Class Members, the Gross Settlement Amount will increase by 5%), or (b)
27 end the Class Period on the date on which the number of Class Members reaches 1,598.

1 64. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
2 an opportunity for Defense Counsel to review the Motions for Preliminary and Final Approval prior
3 to filing with the Court. The Parties and their counsel will cooperate and use their best efforts to
4 effect the Court's approval of the Motions for Preliminary and Final Approval of the Settlement
5 Agreement, and entry of Judgment.

6 65. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Lawsuit,
7 except such proceedings necessary to implement and complete the Settlement Agreement, pending
8 the Final Approval/Settlement Agreement Fairness Hearing to be conducted by the Court.

9 66. No Effect on Employee Benefits. Amounts paid to Plaintiff or other SCMs pursuant
10 to this Settlement Agreement shall not be deemed pensionable earnings or have any effect on the
11 eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay, retirement
12 plans, etc.) of the Plaintiff or SCMs.

13 67. Exhibits and Headings. The descriptive headings of any paragraphs or sections of
14 this Settlement Agreement are inserted for ease of reference only and shall not in any way affect the
15 meaning or interpretation of this Settlement Agreement.

16 68. Amendment or Modification. With Court approval, this Settlement Agreement may
17 be amended or modified only by a written instrument that is signed by counsel for all Parties or their
18 successors-in-interest and signed by the Parties or their successors-in-interest.

19 69. Entire Settlement Agreement. This Settlement Agreement and its exhibits constitute
20 the entire Settlement Agreement among the Parties, and no oral or written representations,
21 warranties or inducements have been made to any Party concerning this Settlement Agreement or
22 its exhibits other than the representations, warranties and covenants contained and memorialized in
23 the Settlement Agreement and its exhibits.

24 70. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant
25 and represent they are expressly authorized by the Parties whom they represent to negotiate this
26 Settlement Agreement and to take all appropriate actions needed by this Settlement Agreement to
27 effectuate its terms. The person signing this Settlement Agreement on behalf of Defendants
28 represents and warrants that they are authorized to sign this Settlement Agreement on behalf of

1 Defendants. Plaintiff represents that he is authorized to sign this Settlement Agreement and that he
2 has not assigned, transferred, or encumbered any claim, or part of a claim, demand, cause of action
3 or any rights herein released and discharged or covered by this Settlement Agreement to any third-
4 party.

5 71. Binding on Successors and Assigns. The provisions of this Settlement Agreement
6 shall run in perpetuity. This Settlement Agreement shall be binding upon, and inure to the benefit
7 of, the successors or assigns of the Parties.

8 72. California Law Governs. All terms of this Settlement Agreement and its exhibits,
9 and any disputes arising hereunder shall be governed by and interpreted according to California law.

10 73. Counterparts. This Settlement Agreement may be executed electronically via
11 DocuSign or other electronic format in one or more counterparts which for purposes of this
12 Agreement shall be accepted as an original. All executed counterparts and each of them shall be
13 deemed to be one and the same instrument provided that counsel for the Parties to this Settlement
14 Agreement shall exchange among themselves copies or originals of the signed counterparts. Copies,
15 including scanned copies of this Agreement, including electronic copies in PDF format that may be
16 furnished via email, and the signatures (electronic or otherwise) contained therein, shall be as
17 effective as the original Agreement.

18 74. This Settlement Agreement Is Fair, Adequate and Reasonable. The Parties believe
19 that this Settlement Agreement is a fair, adequate and reasonable Settlement Agreement of this
20 Lawsuit and have arrived at this Settlement Agreement after extensive arm's-length negotiations,
21 taking into account all relevant factors, present and potential. The Parties further agree that this
22 Settlement Agreement shall not be construed in favor of or against any party by reason of the extent
23 to which any party or their counsel participated in the drafting of this Settlement Agreement.

24 75. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction
25 with respect to the interpretation, implementation and enforcement of the terms of this Settlement
26 Agreement and all orders and judgments entered in connection to it, and the Parties and their counsel
27 submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the
28 Settlement Agreement and all orders and judgments entered in connection to it.

76. Waiver of Certain Appeals. The Parties agree to waive all appeals from the Court's final approval of the Settlement Agreement and entering of Final Judgment as provided herein, unless the Court modifies the Settlement Agreement.

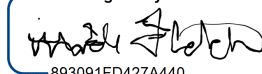
77. No Admissions by the Parties. Plaintiff alleges that the Released Claims have merit, while Defendants contend that they lack merit. This Settlement Agreement is a compromise of disputed claims. Nothing contained in this Settlement Agreement, no documents referred to herein, and no action taken to carry out this Settlement Agreement may be construed or used as an admission by or against the Defendants or Plaintiff as to the merits or lack thereof of the claims asserted.

78. Notice of Settlement Agreement to LWDA. Plaintiff will provide notice of this Settlement Agreement to the Labor Workforce Development Agency ("LWDA") as required by Labor Code Section 2699(l)(2).

IN WITNESS WHEREOF, this Joint Stipulation of Class Action and PAGA Settlement Agreement is voluntarily executed by the Parties and their attorneys as of the dates noted.

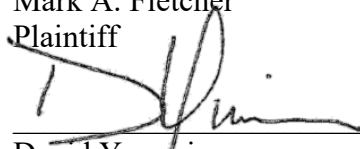
IT IS SO AGREED:

Dated: 09/21/2024

DocuSigned by:

893091FD427A440...

Mark A. Fletcher
Plaintiff

Dated: 09/26/2024


David Yeremian
Alvin B. Lindsay
D.LAW, INC.; DAVID YEREMIAN &
ASSOCIATES, INC.
Attorneys for Plaintiff; Approved as to form

Dated: _____

Defendants

Dated: _____

Kurt Bockes
Valentina Wilson
LITTLER MENDELSON, P.C.
Attorneys for Defendants Approved as to form

1 76. Waiver of Certain Appeals. The Parties agree to waive all appeals from the Court's
2 final approval of the Settlement Agreement and entering of Final Judgment as provided herein,
3 unless the Court modifies the Settlement Agreement.

4 77. No Admissions by the Parties. Plaintiff alleges that the Released Claims have merit,
5 while Defendants contend that they lack merit. This Settlement Agreement is a compromise of
6 disputed claims. Nothing contained in this Settlement Agreement, no documents referred to herein,
7 and no action taken to carry out this Settlement Agreement may be construed or used as an admission
8 by or against the Defendants or Plaintiff as to the merits or lack thereof of the claims asserted.

9 78. Notice of Settlement Agreement to LWDA. Plaintiff will provide notice of this
10 Settlement Agreement to the Labor Workforce Development Agency ("LWDA") as required by
11 Labor Code Section 2699(1)(2).

12 IN WITNESS WHEREOF, this Joint Stipulation of Class Action and PAGA Settlement
13 Agreement is voluntarily executed by the Parties and their attorneys as of the dates noted.

14 **IT IS SO AGREED:**

15
16 Dated: _____

Mark A. Fletcher
Plaintiff

17
18 Dated: _____

David Yeremian
Alvin B. Lindsay
D.LAW, INC.; DAVID YEREMIAN &
ASSOCIATES, INC.
Attorneys for Plaintiff; Approved as to form

19
20
21
22 Dated: 9/13/24

Defendants

K Beutler

23
24
25 Dated: 9/16/2024

Kurt R. Bockes
Kurt Bockes
Valentina Wilson
LITTLER MENDELSON, P.C.
Attorneys for Defendants Approved as to form