

Harris Emran (SBN 329674)
Kaitlin Martinez (SBN 348006)
EMRAN LAW FIRM
415 Mission Street, 37th Floor
San Francisco, California 94105
Office: (415) 890-0041
Email: Harris@Emranlaw.com
Kaitlin@Emranlaw.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA

Michael Guillen, on behalf of themselves and
on behalf of all persons similarly situated,

Plaintiff,

v.

Concord Automotive Sales and Service Inc.,
and DOES 1-25.

Defendants.

Case No: C23-01333

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (the “Agreement”) is entered into by and between Plaintiff Michael Guillen (“Plaintiff”), individually and on behalf of the State of California and all PAGA Group Members (defined below), and Defendant Concord Automotive Sales and Service, Inc. (“Defendant”), subject to the approval of the Court. In consideration of the promises and mutual covenants and agreements herein contained, Plaintiff and Defendant (collectively, the “Parties”) hereby covenant and agree as follows:

1. RECITALS

1.1 On June 1, 2023, Plaintiff filed a civil complaint in Contra Costa (Case No. C23-01333) alleging wage and hour violations and also sought penalties pursuant to the California

1 Attorney General Act of 2004 (“PAGA”) on behalf of all other hourly, piece-rate non-exempt
2 employees who worked for Defendant in California between March 22, 2022, to the date the
3 Court approves this Settlement.

4 1.2 Plaintiff s Complaint alleges causes of action for (1) unfair competition; (2) failure
5 to pay minimum wages; (3) failure to reimburse business expenses; (4) failure to pay wages when
6 due; (5) failure to provide accurate, itemized wage statements; (6) failure to pay overtime
7 compensation; (7) failure to provide required meal periods; (8) failure to provide rest periods; (9)
8 recover of civil penalties under the Labor Code Private Attorney General Act. Plaintiff’s
9 Complaint seeks recovery of alleged unpaid wages, liquidated damages, compensatory damages,
10 restitution, meal and rest period premium payments, PAGA penalties, interest, costs, reasonable
11 attorneys’ fees, and declaratory relief. Defendant denies all claims, denies that Plaintiff and other
12 Aggrieved Employees are entitled to any recovery..

13 1.3 On August 08, 2023, the parties entered into a Joint Stipulation to stay the above-
14 entitled action pending settlement negotiations. Shortly after the filing of the Complaint,
15 Defendant served on Plaintiff a request for the production certain documents and data relating to
16 the claims alleged on behalf of himself and other allegedly aggrieved employees. Thereafter,
17 Defendant provided to Plaintiff voluminous documents and other data relating to all of the claims
18 alleged by Plaintiff. The documents and data produced include, but are not limited to: (1)
19 Defendant’s Employee Handbook; (3) Position or Job Descriptions for all non-exempt
20 employees who have been employed by Defendant on a piece-rate basis or whose compensation
21 includes the payment of an hourly wage and a productivity bonus or commission; (4) the
22 complete personnel file for Plaintiff including all wage statements and Plaintiff’s payment
23 history; (5) data relating to the number of allegedly aggrieved employees and their corresponding
24 pay periods; and (6) all of Defendant’s policies and procedures applicable to Plaintiff and the
25 allegedly aggrieved employees.

26 1.4 This Action has been actively investigated with the Parties performing an
27 exchange of documents and information. the Parties investigated the facts and analyzed the
28 relevant legal issues with regard to the claims and defenses in the Action. Based on this

1 investigation and analysis, Plaintiff believes the Action has merit, while Defendant believes the
2 Action has no merit. The Parties have each considered the uncertainties of continued litigation
3 and the benefits to be obtained under the proposed settlement, and have considered the costs,
4 risks, and delays associated with the continued prosecution of the Action and the likely appeals of
5 any rulings in favor of either Plaintiff or Defendant. At all times, the Parties' settlement
6 negotiations have been non-collusive, adversarial, and at arm's length.

7 1.5 Solely for purpose of settling this case, the Parties stipulate and agree that the
8 requisites for establishing Plaintiff's standing as an "Aggrieved Employee" has been satisfied.

9 1.6 Defendant denies any liability or wrongdoing of any kind whatsoever associated
10 with the claims alleged in the Action. With respect to Plaintiff's claims, Defendant contends,
11 among other things, that it has complied with all applicable state, federal, and local laws affecting
12 Plaintiff and other Aggrieved Employees.

13 1.7 It is the Parties' intention and the objective of this Agreement to avoid the costs of
14 further litigation and trial, and to settle and dispose of, fully and completely and forever, the
15 claims released herein and described below.

16 **2. DEFINITIONS**

17 As used in this Agreement, the terms set forth in this Section 2 shall have the meanings
18 ascribed to them below.

19 2.1 "Action" means the above captioned action entitled Michael Guillen v. Concord
20 Automotive Sales and Services Inc, Case No. C23-01333, currently pending in the Superior Court
21 of the State of California, County of Contra Costa.

22 2.2 "Administrator" means Phoenix Settlement Administrators, the neutral entity the
23 Parties have Agreed to administer this Settlement.

24 2.3 "Aggrieved Employee" means Plaintiff and all persons who are employed or have
25 been employed by Defendant in California as an hourly non-exempt employee either paid on a
26 piece-rate basis or whose compensation includes the payment of an hourly wage and a
27 productivity bonus or commission during the PAGA Period.
28

2.4 “Agreement” means this PAGA Settlement Agreement, including all Exhibits referred to herein and attached hereto.

2.5 “Approval Date” means the date on which the Court enters the Order Approving Settlement and Judgment Thereon.

2.6 “Approval Order” or “Judgment” means the Order Approving Settlement and Judgment Thereon approving the Settlement and this Agreement, which shall substantially conform to Exhibit A hereto.

2.7 “Defendant” means Concord Automotive Sales and Service, Inc.

2.8 “Complaint” means the complaint filed by Plaintiff in the Action on June 1, 2023.

2.9 “Court” means the Superior Court of California, County of Contra Costa.

2.10 “Defendant’s Counsel” means the Jones Law Firm LLC.

2.11 “Effective Date” means either (a) the date 60 days after entry of the Approval Order and Judgment, if no motions for reconsideration and no appeals or other efforts to obtain review have been filed, or (b) in the event a motion for reconsideration, an appeal or other effort to obtain review of the Approval Order and Judgment, the date 60 days after such reconsideration, appeal, or review has been finally concluded and is no longer subject to review, whether by appeal, petition for rehearing, petition for review, or otherwise.

2.12 “Fee and Expense Award” means such award of attorneys’ fees and costs/expenses as the Court may authorize to be paid to Plaintiff’s Counsel for the services they have rendered in the Action.

2.13 “General Release Payment” means the payment to Plaintiff for damages for the Labor Code violations alleged in the Complaint, separate and apart from any Settlement Payment, to be paid from the Gross Settlement Amount.

2.14 “Gross Settlement Amount” means One Hundred Twenty-Five Thousand Dollars and No Cents (\$125,000.00), which is the maximum total amount that Defendant shall be required to pay for any and all purposes under this Agreement. The following shall be paid from the Gross Settlement Amount pursuant to the Plan of Allocation set forth in Section 4.4, below:

(a) the LWDA Payment, (b) the Settlement Payments to PAGA Group Members, (c) the Fee and

1 Expense Award, (d) the General Release Payment, and (e) the Settlement Administration Costs.
2 Under no circumstances shall Defendant pay any sum in excess of the Gross Settlement Amount
3 in connection with the Settlement.

4 2.15 "LWDA" means the California Labor and Workforce Development Agency.

5 2.16 "LWDA Payment" means the portion of the Gross Settlement Amount to be paid
6 to the LWDA under this Agreement, which shall equal 75 percent of the Net Settlement Sum.

7 2.17 "Net Settlement Sum" means the Gross Settlement Amount less the following:
8 (a) the Fee and Expense Award, (b) the General Release Payment, and (c) the Settlement
9 Administration Costs.

10 2.18 "Notice of Settlement" means the notice to be mailed to PAGA Group Members
11 with their Settlement Payments, which shall substantially conform to Exhibit B hereto.

12 2.19 "PAGA" means the Labor Code Private Attorneys General Act of 2004 (Lab.
13 Code, § 2698, et seq.).

14 2.20 "PAGA Group Members" or "Members" means Plaintiff and all persons who are
15 employed, or have been employed, by Defendant in California as an hourly non-exempt employee
16 who were either paid on a piece-rate basis or whose compensation included the payment of an
17 hourly wage and a productivity bonus or commission from March 22, 2022 through the Approval
18 Date.

19 2.21 "PAGA Group Members Payment" means the aggregate sum of all Settlement
20 Payments that the Settlement Administrator determines are owed to PAGA Group Members
21 under this Agreement, which shall equal 25 percent of the Net Settlement Sum.

22 2.22 "PAGA Period" means the time period from March 22, 2022 to the Approval
23 Date.

24 2.23 "Parties" means plaintiff Michael Guillen, on behalf of himself, the State of
25 California, and all PAGA Group Members, and defendant Concord Automotive Sales and
26 Service, Inc.

1 2.24 “Pay Periods” means the number of pay periods in the PAGA Period during which
2 a PAGA Group Member worked for Defendant for at least one day. Pay Periods will be
3 calculated according to Defendant’s records.

4 2.25 “Plaintiff” means plaintiff Michael Guillen.

5 2.26 “Plaintiff’s Counsel” Emran Law Firm, the attorneys representing the Plaintiff and
6 other Aggrieved Employees in the Action.

7 2.27 “Plan of Allocation” means the manner in which the Net Settlement Sum shall be
8 paid to the LWDA and PAGA Group Members as set forth in Section 4.4, below.

9 2.28 “Released Claims” means any and all claims, causes of action, complaints,
10 charges, and demands that are alleged in the Action and/or Plaintiff’s PAGA notice that was
11 submitted to the LWDA on or about March 22, 2023 or that could have been alleged based on the
12 facts alleged in the Action and/or the PAGA notice, including without limitation to claims under
13 California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1997.1, 1198,
14 2802, Bus. & Prof. Code § 17200, and the applicable California Industrial Commission Wage
15 Orders, as set forth in more detail in Section 5.1. The Released Claims are released by Plaintiff,
16 the State of California and the PAGA Group Members as part of this Settlement.

17 2.29 “Released Parties” means Defendant Concord Automotive Sales and Service, Inc.,
18 California Automotive Retailing Group, Inc., their respective past, present, and future direct and
19 indirect subsidiaries, parent companies and affiliates of any of the foregoing; and (iv) the past,
20 present, and future shareholders, directors, officers, agents, employees, attorneys, insurers,
21 members, partners, managers, contractors, agents, consultants, representatives, administrators,
22 fiduciaries, benefit plans, transferees, predecessors, successors and assigns of any of the
23 foregoing.

24 2.30 “Settlement” means this Agreement and all actions taken pursuant to and in
25 furtherance of this Agreement.

26 2.31 “Settlement Administration Costs” means the amount approved by the Court to be
27 paid to the Settlement Administrator from the Gross Settlement Amount for administration of the
28 Settlement, estimated to be no more than [\$1,500.00].

1 2.32 “Settlement Administrator” means Phoenix Settlement Administrators or such
2 professional, third-party administrator as may be approved by the Court, which shall be
3 responsible for administering the Settlement pursuant to the terms of this Agreement and the
4 Judgment. The Settlement Administrator shall agree to confidentiality terms as may be required
5 by Defendant regarding personnel, payroll, and any other data provided to the Settlement
6 Administrator.

7 2.33 “Settlement Payment” means the amount that the Settlement Administrator
8 determines is owed to a PAGA Group Member pursuant to the Plan of Allocation described in
9 Section 4.4, below.

10 2.34 “Settlement Fund” means the fund established and administered by the Settlement
11 Administrator for the purpose of receiving and disbursing amounts to be paid to the LWDA, the
12 PAGA Group Members, Plaintiff, Plaintiff’s Counsel, and the Settlement Administrator pursuant
13 to this Agreement. The Settlement Fund shall be funded by Defendant following the Effective
14 Date in accordance with Section 4.6.1, below.

15 2.35 “Settlement Fund Amount” means the total amount that Defendant shall remit to
16 the Settlement Administrator in accordance with Section 4.6.1, below, which shall consist of the
17 following amounts, the aggregate of which shall not exceed the Gross Settlement Amount:
18 (a) the LWDA Payment, (b) the PAGA Group Members Payment, (c) the Fee and Expense
19 Award, (d) the General Release Payment, and (e) the Settlement Administration Costs.

20 **3. SETTLEMENT TERMS**

21 3.1 **Motion to Approve PAGA Settlement.** Promptly upon the Parties’ execution of
22 this Agreement, Plaintiff shall file a motion for an order approving the Settlement, including
23 (without limitation) the payment to the LWDA of 75 percent of the Net Settlement Sum.
24 Concurrently therewith, Plaintiff shall submit a copy of this Agreement to the LWDA, in
25 accordance with Labor Code section 2699, subdivision (l)(2). Plaintiff will have sole
26 responsibility for drafting and filing the motion for approval of the Settlement but will provide his
27 proposed moving papers to Defendant for review and comment at least three business days before
28 filing them with the Court.

1 **3.2 Attorneys' Fees and Costs.** Defendant agrees not to oppose Plaintiff's
2 application for attorneys' fees of up to [\$41,000.00] and costs not to exceed [\$563.25], which
3 shall be subject to the Court's approval. Plaintiff agrees not to apply for attorneys' fees of more
4 than [\$41,000] or for costs of more than [\$563.25], and in no event shall Defendant be liable for
5 any attorneys' fees or costs in excess of these amounts. The Fee and Expense Award shall
6 represent payment for all claims for Plaintiff's Counsel's attorneys' fees and costs, past and
7 future, incurred in the Action. The Fee and Expense Award shall be paid from the Gross
8 Settlement Amount, and Defendant shall not otherwise be required to pay for any portion of
9 Plaintiff's Counsel's attorneys' fees, costs, or expenses. The Fee and Expense Award shall be
10 paid to Plaintiff's Counsel following the Effective Date, in accordance with Section 4.6.2, below.
11 An award by the Court of attorneys' fees or costs that is less than the amounts applied for will not
12 be grounds for Plaintiff or Plaintiff's Counsel to challenge or withdraw from the Settlement, and
13 any amounts not awarded in attorneys' fees or costs will be included in the Net Settlement Sum.

14 **3.3 General Release Payment.** Plaintiff shall receive the payment of \$32,500.00 in
15 damages to compensate him individually for all of the claims and causes of action alleged on the
16 Complaint, as well as for Plaintiff's efforts as representative of the PAGA Group Members and in
17 consideration of Plaintiff's general release of claims set forth in Section 5.2, below. The General
18 Release Payment shall be reported by the Settlement Administrator as Wages for which
19 appropriate withholdings will be deducted by the Settlement Administrator. For purposes of this
20 Settlement, the General Release Payment shall be allocated 60% to unpaid Wages and 40% to
21 penalties/interest. The General Release Payment is separate from and in addition to any
22 Settlement Payment to be paid to Plaintiff as a PAGA Group Member hereunder. An award by
23 the Court of a General Release Payment that is less than the amount applied for will not be
24 grounds for Plaintiff or Plaintiff's Counsel to challenge or withdraw from the Settlement, and any
25 amount not awarded in the General Release Payment will be included in the Net Settlement Sum.

26 **3.4 Delivery of Settlement Amount by Defendant.** In full settlement of the Released
27 Claims and following the Effective Date, Defendant shall deliver the Settlement Fund Amount to
28

1 the Settlement Administrator for establishment of the Settlement Fund, in accordance with
2 Section 4.6.1, below.

3 **3.5 Interim Stay of Proceedings.** Except as set forth in Section 3.1, above, the
4 Parties agree to the entry of a formal stay of all proceedings in the Action, except such
5 proceedings as may be necessary to implement and complete the Settlement.

6 **4. SETTLEMENT PROCEDURES**

7 **4.1 Notification to the LWDA.** Plaintiff shall submit to the LWDA a copy of the
8 Judgment within ten (10) days after its entry, in accordance with Labor Code section 2699,
9 subdivision (l)(3).

10 **4.2 Information Regarding PAGA Group Members.** Within ten (10) business days
11 from the Effective Date, Defendant will provide the Settlement Administrator the following
12 information with respect to each PAGA Group Member: (i) name, (ii) last known residence
13 address of record with Defendant, (iii) social security number, and (iv) number of Pay Periods
14 worked by the PAGA Group Member during the PAGA Period. The information Defendant
15 provides to the Settlement Administrator, along with any updated contact information identified
16 by the Settlement Administrator as set forth in Section 4.3, below, shall be used solely to
17 administer the Settlement Payment process described herein, shall remain confidential, and shall
18 not be disclosed to anyone, except pursuant to the express written authorization of Defendant or
19 the PAGA Group Member in question, by order of the Court, or to the extent necessary to fulfill
20 the Settlement Administrator's reporting obligations hereunder.

21 **4.3 Settlement Administrator Duties.** The Settlement Administrator's duties shall
22 include, without limitation: (i) taking receipt of and safeguarding the Settlement Fund Amount
23 and establishing the Settlement Fund; (ii) calculating and distributing the LWDA Payment,
24 Settlement Payments to PAGA Group Members, Fee and Expense Award, and General Release
25 Payment, provided such amounts are approved by the Court; (iii) issuing all tax forms required by
26 law; (iv) filing reports with the taxing authorities as required by law; and (v) establishing a
27 toll-free number for PAGA Group Members to call the Settlement Administrator with any
28 questions regarding the Settlement, together with such other tasks as the Parties may mutually

1 agree or the Court may order the Settlement Administrator to perform. The Settlement
2 Administrator shall take all reasonable steps to ensure that (a) the highest percentage of PAGA
3 Group Members receive their Settlement Payments, and (b) it has the most current and accurate
4 addresses for the PAGA Group Members, including but not limited to performing an initial
5 National Change of Address database search on all formerly employed PAGA Group Members.
6 In addition, the Settlement Administrator shall perform a standard search, also known as “batch,”
7 “skip trace,” or “credit header” searches, on all addresses returned as undeliverable. The
8 Settlement Administrator shall immediately re-mail returned checks tendered to the PAGA Group
9 Members to all updated addresses obtained through its efforts to locate their most current and
10 accurate addresses.

11 **4.4 Plan of Allocation: Calculation of Settlement Payments.** The Settlement
12 Administrator shall be responsible for the calculation of Settlement Payments to the PAGA Group
13 Members. The Settlement Payments will be paid on a pro rata basis as follows:

14 4.4.1 Before computing the amounts of any Settlement Payments to be paid to
15 PAGA Group Members, the Settlement Administrator shall determine the amount of the PAGA
16 Group Members Payment by deducting from the Gross Settlement Amount the following: (a) the
17 LWDA Payment, (b) the Fee and Expense Award, (c) the General Release Payment, and (d) the
18 Settlement Administration Costs.

19 4.4.2 The Settlement Payment for each PAGA Group Member shall be the
20 PAGA Group Member’s pro-rata share of the PAGA Group Members Payment, calculated as
21 follows: The Settlement Administrator shall calculate the total number of Pay Periods worked by
22 all PAGA Group Members during the PAGA Period. The Settlement Administrator will then
23 divide the PAGA Group Members Payment by the total number of Pay Periods, resulting in a per
24 Pay Period value for each PAGA Group Member. The Settlement Administrator will then take
25 the per Pay Period value and multiply it by the number of Pay Periods worked by each PAGA
26 Group Member.

27 4.4.3 The Settlement Administrator shall determine the Settlement Payment that
28 each PAGA Group Member is entitled to receive, pursuant to the formula set forth in

1 Section 4.4.2, above. In order to determine the amount of the Settlement Payment to which each
2 PAGA Group Member is entitled, the Settlement Administrator shall use the information
3 provided by Defendant pursuant to Section 4.2, above.

4 **4.5 Taxes.**

5 **4.5.1 PAGA Group Member Obligations.** Each PAGA Group Member shall
6 be individually responsible for remitting and paying applicable federal, state, and local income
7 taxes, if any, on all amounts such person receives pursuant to this Agreement, and Defendant
8 shall have no liability therefor.

9 **4.5.2 Settlement Administrator Responsibilities Regarding Taxes.** It shall be
10 the responsibility of the Settlement Administrator or its designee to timely and properly prepare
11 and deliver the necessary tax documentation to all necessary parties and to report all necessary
12 information to the applicable government entities as required by law. All payments to the
13 LWDA, PAGA Group Members, Plaintiff, and Plaintiff's Counsel pursuant to this Agreement
14 shall be reported on IRS Form 1099-MISC, to the extent required by law.

15 **4.5.3 No Claims.** No person shall have any claim against Defendant, the
16 Released Parties, Defendant's Counsel, Plaintiff, Plaintiff's Counsel, or the Settlement
17 Administrator based on mailings, distributions, and payments made in accordance with or
18 pursuant to this Agreement.

19 **4.6 Distribution of Settlement Payments.** After the Effective Date, the Settlement
20 Payments shall be distributed to PAGA Group Members in accordance with the procedures set
21 forth below:

22 **4.6.1 Remittance of Settlement Fund Amount.** Within ten (10) business days
23 from the Effective Date, Defendant will remit the Settlement Fund Amount to the Settlement
24 Administrator for the establishment of the Settlement Fund.

25 **4.6.2 Delivery of Payments.** Within five (5) days after Defendant's remittance
26 to the Settlement Administrator of the Settlement Fund Amount, the Settlement Administrator
27 shall establish the Settlement Fund and distribute (a) the LWDA Payment, (b) the Settlement
28 Payments to PAGA Group Members, (c) the Fee and Expense Award, (d) the General Release

1 Payment, and (e) the Settlement Administration Costs. No payments shall be made until the
2 Judgment is final (meaning the right to appeal or otherwise seek review of the Judgment has
3 expired) and on the condition that no appeals from the Judgment have been filed.

4 **4.6.3 Negotiation of Settlement Checks.** Settlement checks tendered to PAGA
5 Group Members shall remain valid and negotiable for one hundred eighty (180) days following
6 the date of their issuance and shall thereafter be automatically voided if not cashed by the PAGA
7 Group Member within that time. Upon the voiding of a PAGA Group Member's check, the
8 PAGA Group Member's right to participate in the Settlement shall be extinguished, although the
9 individual shall remain a PAGA Group Member bound by the Judgment entered in the Action. In
10 the event any checks remain uncashed for any reason after this 180-day period, the Settlement
11 Administrator shall remit to the California Controller's Unclaimed Property Fund in the name of
12 the Aggrieved Employee. Administration of the Settlement shall be completed no later than two
13 hundred and seventy (270) days after the Effective Date.

14 **4.7 Discharge of Defendant's Obligations.** Defendant shall fully discharge its
15 obligations to Plaintiff, the LWDA, and the PAGA Group Members after providing the
16 information on the PAGA Group Members to the Settlement Administrator as set forth in
17 Section 4.2, above, and following the remittance of the Settlement Fund Amount to the
18 Settlement Administrator as set forth in Section 4.6.1, above, regardless of whether checks
19 representing individual Settlement Payments are actually received and/or negotiated by PAGA
20 Group Members. Once Defendant has complied with its obligations set forth in Sections 4.2
21 and 4.6.1, above, it will be deemed to have satisfied all terms and conditions to which it is subject
22 under this Agreement, shall be entitled to all protections afforded to it under the Agreement, and
23 shall have no further obligations under the Agreement, regardless of what occurs with respect to
24 the further administration of the Settlement.

25 **4.8 Notification and Certification by Settlement Administrator.** The Settlement
26 Administrator shall keep Defendant's Counsel and Plaintiff's Counsel apprised of the status of the
27 settlement administration process and its distribution of Settlement Payments. Upon completion
28 of administration of the Settlement, the Settlement Administrator shall provide a detailed, written

1 certification of such completion to the Parties, including the amounts paid to the LWDA, PAGA
2 Group Members (in the aggregate), Plaintiff's Counsel, Plaintiff, and the Settlement
3 Administrator.

4 **4.9 Nullification of Settlement Agreement If Settlement Not Approved.** In the
5 event the Court does not approve the Settlement as provided herein, this Agreement shall be null
6 and void *ab initio* (with the exception of this Section 4.9) and any decision or order by the Court
7 in furtherance of this Settlement shall be treated as withdrawn or vacated by stipulation of the
8 Parties. In such case, the Parties shall be returned to their respective statuses as of May 23, 2022.

9 **5. RELEASE AND WAIVER OF CLAIMS**

10 **5.1 PAGA Release.** Effective upon the Effective Date and conditional on the
11 remittance of the Settlement Fund Amount as set forth in Section 4.6.1, above, the State of
12 California and all PAGA Group Members (including Plaintiff) shall be deemed to have, and by
13 operation of the Judgment shall have, expressly released, waived, and discharged the Released
14 Parties from any and all claims, debts, liabilities, demands, obligations, guarantees, costs,
15 expenses, attorneys' fees, damages, action or causes of action of any nature under any state,
16 federal or local law that were or could have been asserted based on the facts and allegations made
17 in the Action, and any amendments thereto, including without limitation to claims under
18 California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1997.1, 1198,
19 2802, Bus. & Prof. Code § 17200, California Industrial Commission Wage Orders, and including
20 all claims for or related to alleged unpaid wages, overtime or double time wages, minimum
21 wages, meal periods and meal period premiums, rest periods and rest period premiums, off-the-
22 clock work, inaccurate wage statements, payroll records and record keeping, unfair competition,
23 unfair business practices, unlawful business practices, representative actions, aggrieved party
24 claims, injunctive relief, declaratory relief, accounting, punitive damages, liquidated damages,
25 penalties of any nature (including but not limited to civil penalties, waiting time penalties, and
26 PAGA penalties), interest fees, costs, as well as all other claims and allegations alleged in the
27 Action, during the PAGA Period, and they shall be bound by the Approval Order and Judgment
28

1 and be forever barred from pursuing any of the Released Claims against any of the Released
2 Parties.

3 **5.2 Plaintiff's General Release.** In addition to his release of the Released Parties
4 from the Released Claims as set forth in Section 5.1, above, effective upon the Effective Date and
5 remittance of the Settlement Fund Amount, Plaintiff hereby expressly releases and waives any
6 and all claims, demands, rights, liabilities, and causes of action he has or has ever had against any
7 of the Released Parties, whether for economic damages, noneconomic damages, exemplary
8 damages, penalties, restitution, injunctive or declaratory relief, interest, attorneys' fees, costs, or
9 any other form of monetary or non-monetary relief in any way arising out of or relating to any
10 facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions, or
11 failures to act at any time up to and including the Approval Date, including but not limited to any
12 claims arising from or related to his employment. This general release by Plaintiff includes all
13 statutory claims, common law claims (including but not limited to those sounding in contract,
14 tort, and equity), and claims for compensation to the fullest extent permitted by law, including
15 without limitation, any and all claims under California Labor Code §§ 201, 202, 203, 204, 226,
16 226.7, 510, 512, 1194, 1197, 1997.1, 1198, 2802, Bus. & Prof. Code § 17200, California
17 Industrial Commission Wage Orders, and including all claims for or related to alleged unpaid
18 wages, overtime or double time wages, minimum wages, meal periods and meal period
19 premiums, rest periods and rest period premiums, off-the-clock work, wage statements, payroll
20 records and record keeping, unfair competition, unfair business practices, unlawful business
21 practices, representative actions, aggrieved party claims, injunctive relief, declaratory relief,
22 accounting, punitive damages, liquidated damages, penalties of any nature, interest fees, costs, as
23 well as all other claims and allegations alleged in the Action, during Plaintiff's employment with
24 Defendant.

25 **5.3 Waiver of Civil Code Section 1542.** Plaintiff, for himself only, acknowledges
26 that his general release herein includes potential claims and costs that may not be known or
27 suspected by him to exist, and he hereby expressly and affirmatively waives and relinquishes any
28 and all rights and benefits that he may otherwise have relating to the claims released in

1 Section 5.2, above, pursuant to Civil Code section 1542 and any similar law of any state or
2 territory of the United States. Civil Code section 1542 states as follows:

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

7 **6. ADDITIONAL PROVISIONS**

8 **6.1 No Admission of Liability.** Defendant contends that all of its employment
9 practices comply and at all times have complied with applicable law, including California Labor
10 Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1997.1, 1198, 2802, Bus. & Prof.
11 Code § 17200, and the applicable California Industrial Commission Wage Orders. Defendant
12 denies any wrongdoing or liability arising out of any of the facts or conduct alleged in the Action
13 and contends that all of Plaintiff's claims and allegations lack merit and Defendant has valid
14 defenses to each of them. This Agreement reflects the compromise and settlement of disputed
15 claims between the Parties, and its provisions and any and all drafts, communications, or
16 discussions relating thereto do not constitute, are not intended to constitute, and will not under
17 any circumstances be deemed to constitute an admission by Defendant as to the merits, validity,
18 or accuracy of any of the allegations or claims in the Action, nor a waiver of any defense.

19 **6.2 Parties Represented by Counsel.** The Parties hereby acknowledge that they have
20 been represented in negotiations for and in the preparation of this Agreement by independent
21 counsel of their own choosing, they have read this Agreement and have had it fully explained to
22 them by such counsel, and they are fully aware of the contents of this Agreement and of its legal
23 effect.

24 **6.3 Voluntary Agreement.** This Agreement is executed voluntarily and without
25 duress or undue influence on the part of or on behalf of either Party, or of any other person, firm,
26 or entity. Each Party has made such investigation of the facts pertaining to this Agreement and of
27 all other matters pertaining hereto as he or it deems necessary.
28

1 **6.4 No Public Comment.** Unless they first obtain Defendant's express written
2 consent, Plaintiff's Counsel and Plaintiff shall not (a) discuss, reveal, disclose, publicize, or
3 promote the terms of this Settlement, or the negotiations leading to this Settlement, to any third
4 party (including but not limited to the media, the legal community, or the public at large), or
5 (b) issue any press releases or initiate any contact with the media regarding the Settlement, or
6 otherwise advertise or publicize the Settlement. Nothing in this Agreement is intended to prevent
7 Plaintiff's Counsel from disclosing or discussing the terms of this Settlement (i) with the Court,
8 the Settlement Administrator, or PAGA Group Members, (ii) in court filings to establish
9 adequacy of counsel or for purposes of seeking court approval of wage and hour settlements, or
10 (iii) as otherwise required by law.

11 **6.5 Authorization.** The Parties hereto represent and warrant that each signatory
12 hereto has the full right and authority to enter into this Agreement and bind the Party on whose
13 behalf he or it has executed this Agreement.

14 **6.6 Agreement Binding on Successors in Interest.** This Agreement shall be binding
15 on and inure to the benefit of the respective successors, assigns, heirs, and personal
16 representatives of the Parties.

17 **6.7 Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to
18 accomplish the terms of this Agreement, including but not limited to execution and delivery of
19 any and all additional papers, documents, and other assurances and taking such other action that
20 may be reasonably necessary to implement the terms of this Agreement. The Parties and their
21 counsel shall use their best efforts, including all efforts contemplated by this Agreement and any
22 other efforts that may become necessary by order of the Court, to effectuate this Agreement and
23 the terms set forth herein.

24 **6.8 Entire Agreement.** This Agreement contains the entire agreement between the
25 Parties and constitutes the complete, final, and exclusive embodiment of their agreement with
26 respect to the subject matter hereof. This Agreement is executed without reliance upon any
27 promise, representation, or warranty by either Party or any representative of a Party, other than
28 those expressly set forth herein.

1 6.9 **Headings.** The various headings used in this Agreement are solely for the
2 convenience of the Parties and shall not be used to interpret this Agreement.

3 6.10 **No Construction Against Drafter.** This Agreement shall be deemed to have been
4 drafted jointly by the Parties, and any rule that a document shall be interpreted against the drafter
5 shall not apply to this Agreement.

6 6.11 **Amendment and Modification.** This Agreement may not be amended, altered, or
7 modified except in writing and signed by the Parties hereto, their successors in interest, or their
8 duly authorized representatives, and approved by the Court.

9 6.12 **Governing Law.** This Agreement is entered into in accordance with the laws of
10 the State of California and shall be governed by and interpreted in accordance with those laws.

11 6.13 **Jurisdiction of the Court.** Any dispute regarding the interpretation or validity or
12 otherwise arising out of this Agreement, or relating to the Action or the Released Claims, shall be
13 subject to the exclusive jurisdiction of the Court. The Parties intend this Agreement to be
14 enforceable pursuant to Code of Civil Procedure section 664.6. Following the entry of the
15 Judgment but without affecting the finality thereof, the Court shall retain jurisdiction solely with
16 respect to the interpretation, implementation, and enforcement of the terms of this Agreement and
17 all orders and judgments entered in connection therewith, and the Parties and their counsel shall
18 submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing
19 the Settlement embodied in this Agreement and all orders and judgments entered in connection
20 therewith.

21 6.14 **Agreement Constitutes a Complete Defense.** To the extent permitted by law,
22 this Agreement may be pleaded as a full and complete defense to any action, suit, or other
23 proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this
24 Agreement.

25 6.15 **Signatures.** Any signature made and transmitted by facsimile or electronically
26 (such as DocuSign) or by a Portable Document Format (“PDF”) attachment to an email shall have
27 the same force and effect as original signatures.
28

1 6.16 **Execution Date and Execution in Counterparts.** This Agreement shall be
2 deemed executed upon the last date of signature of all of the undersigned. The Parties may
3 execute this Agreement in counterparts, each of which shall constitute an original, but all of
4 which together shall constitute one and the same instrument having the same force and effect as if
5 all Parties had signed the same instrument.

6 IN WITNESS WHEREOF, the Parties hereto have so agreed.

7 Dated: October 24, 2023

MICHAEL GUILLEN

8
9 
10 Michael Guillen (Oct 24, 2023 13:36 PDT)

On behalf of himself, the State of California,
and all PAGA Group Members

11 Dated: October 23, 2023

CONCORD AUTOMOTIVE SALES AND
SERVICE, INC.

12
13 
14 By: Monica Desanjh

15
16 APPROVED AS TO FORM:

EMRAN LAW FIRM

17 Dated: October 24, 2023

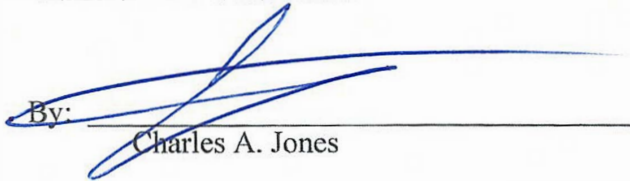
18 By: Harris Emran
19 Harris Emran

Attorneys for Plaintiff
MICHAEL GUILLEN

20
21 APPROVED AS TO FORM:

JONES LAW FIRM LLC

22 Dated: October 24, 2023

23 
24 By: Charles A. Jones

Attorneys for Defendant
CONCORD AUTOMOTIVE SALES AND
SERVICE, INC.

EXHIBIT A

1 CAPTION

2
3
4
5
6
7
8
9 The motion of plaintiff Michael Guillen for an order approving the settlement of the
10 above-captioned action and entering judgment thereon (“Motion”) having come before the Court,
11 and the Court being duly apprised of the premises, good cause appearing,

12 IT IS HEREBY ORDERED that the Motion shall be and is granted and the settlement of
13 this action is hereby approved, and

14 IT IS FURTHER ORDERED as follows:

15 1. Capitalized terms in this Approval Order shall have the same meaning they are
16 given in the Settlement Agreement attached as Exhibit [X] to the Declaration of [PLAINTIFF’S
17 COUNSEL] filed in support of the Motion;

18
19 2. Phoenix Settlement Administrators is approved to serve as the Settlement
20 Administrator and is hereby authorized to perform all of the duties assigned to it in the Settlement
21 Agreement and to disburse the following from the Settlement Fund Amount in accordance with
22 the terms of the Settlement Agreement:

23
24
25
26
27
28 EXHIBIT A

- a. The LWDA Payment in the amount of \$_____;
- b. The Settlement Payments to PAGA Group Members in the aggregate amount of \$_____;
- c. The Fee and Expense Award in the amount of \$_____;
- d. The General Release Payment in the amount of \$_____;
- and
- e. The Settlement Administration Costs in the amount of \$_____.

3. The State of California and all PAGA Group Members (including Plaintiff) are hereby deemed to have, and by operation of this Approval Order and Judgment shall have, expressly released, waived, and discharged the Released Parties from the Released Claims, and they shall be bound by this Approval Order and Judgment and be forever barred from suing the Released Parties on any of the Released Claims.

4. Judgment shall be entered forthwith in accordance with the foregoing, with each side to pay his or its own attorneys' fees and costs except as expressly set forth in the Settlement Agreement.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2023

Honorable _____
Judge of the Superior Court

EXHIBIT A

EXHIBIT B

NOTICE OF SETTLEMENT

Enclosed is a check representing your share of the proceeds of the settlement of a lawsuit brought against Concord Automotive Sales and Services Inc. by a former employee, entitled *Michael Guillen v. Concord Automotive Sales and Services, Inc.*, Contra Costa County Superior Court Case No. C23-01333 (the “Action”). The Action alleged a claim under California’s Private Attorneys General Act, Cal. Lab. Code, § 2698, et seq., for alleged violations of California Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1997.1, 1198, 2802, Bus. & Prof. Code § 17200, and the applicable California Industrial Commission Wage Order.

The action is now settled. Your payment was calculated based on the total number of pay periods you worked in a for Defendant during the period from March 22, 2002 to [APPROVAL DATE], multiplied by the per pay period value derived from the settlement. The settlement has been approved by the Court and no further action is required on your part. You should cash or negotiate your check by [180 DAYS AFTER ISSUANCE], after which the check will be void and you will no longer be able to share in the settlement. You will be bound by the settlement regardless of whether you cash your check. If you have questions about the settlement, you may call the settlement administrator, [NAME] at [TOLL-FREE NUMBER].

Please do not contact the Court regarding this notice.