

Larry W. Lee (State Bar No. 228175)
Max W. Gavron (State Bar No. 291697)
Kwanporn “Mai” Tulyathan (State Bar No. 316704)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile
lwlee@diversitylaw.com
mgavron@diversitylaw.com
ktulyathan@diversitylaw.com

William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SHASTA**

RYAN MIDDLEBROOKS, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

FLEETPRIDE, INC., an Alabama
corporation; and DOES 1 through 50,
inclusive,

Defendants

Case No. 23CV-0202247

(Assigned to the Hon. Stephen H. Baker, Dept. 3)

**DECLARATION OF MAX W. GAVRON IN
SUPPORT OF PLAINTIFF’S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: September 9, 2024

Time: 8:30 A.M.

Dept.: 3

Action Filed: May 16, 2023

Trial Date: November 5, 2024

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

I, Max W. Gavron, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, counsel of record for Plaintiff Ryan Middlebrooks (“Plaintiff”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

PROCEDURAL HISTORY

2. On May 8, 2023, Plaintiff submitted written notice to the California Labor and Workforce Development Agency (“LWDA”), alleging violations of Labor Code § 226, pursuant to the Private Attorneys General Act (“PAGA”), Labor Code § 2699 (“PAGA Letter”).

3. On May 16, 2023, Plaintiff filed a class action complaint against Defendant FleetPride, Inc. (“Defendant”) in the Superior Court of the State of California for the County of Shasta, on behalf of himself and all similarly situated employees (the “Action”). Plaintiff asserted claims for violation of Labor Code § 226.

4. On July 12, 2023, Plaintiff filed a first amended class and representative action complaint (“First Amended Complaint”), adding a cause of action for violation of Labor Code § 2698, *et seq.* The First Amended Complaint is the operative complaint.

5. Plaintiff contends that Defendant issued noncompliant wage statements to employees whenever overtime wages were paid. Plaintiff seeks damages and penalties under the California Labor Code and the PAGA, as well as attorneys' fees and costs. Defendant maintains that all wage statements that it issued to Plaintiff and other hourly, non-exempt employees in California during the relevant period correctly listed the overtime hours, applicable rates of pay, and total hours worked, and otherwise complied in all respects with California law, including California Labor Code § 226; denies that it violated the California Labor Code; and denies that is liable for any of the damages or penalties sought by Plaintiff in this Action. Moreover, as of September 15, 2023, Defendant changed the format of the wage statements it issues to its hourly, non-exempt employees from that date forward.

6. The Parties engaged in informal discovery prior to mediation. Among other

relevant topics, the discovery required Defendant to provide documents and data pertaining to the number of putative class members and applicable wage statements.

7. On November 28, 2023, the Parties engaged in a full-day mediation with neutral Phillip K. Cha, Esq.

8. In advance of the mediation, Defendant provided Plaintiff's Counsel with informal data and information, including (1) relevant policies, (2) all wage statements issued to Plaintiff, and (3) data points pertaining to the putative class size and the number of wage statements that included overtime and/or doubletime wages issued to them during the applicable class and PAGA periods. This information allowed Plaintiff to conduct a liability and damages analysis. After arm's length negotiations, the Parties reached an agreement in principle and entered into a memorandum of understanding.

9. In resolution of Plaintiff's class and PAGA claims, the Parties entered into the Joint Stipulation Re: Class Action and Representative Action Settlement ("Settlement," "Agreement," or "Settlement Agreement"), a true and correct copy of which is attached hereto as **Exhibit A**.

10. The Parties recognize the risk, expense, and delay in continuing litigation with the class and PAGA claims, and believe the settlement to be fair, reasonable, and adequate.

11. Each side has apprised the other of their respective factual contentions, legal theories, and defenses, resulting in negotiations taking place between the Parties.

THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

12. Based on the class data provided by Defendant, Plaintiff estimated that Defendant could face potential liability of up to approximately \$762,200.00 for Plaintiff's class claims if Plaintiff succeeded on all claims at trial. Plaintiff was able to estimate the potential class penalties based on class data provided by Defendant, which identified 143 putative class members who received 41 or more wage statements including overtime wages (and thus were subject to a potential maximum penalty of \$4,000 under Labor Code § 226(e)(1)), 136 putative class members who received fewer than 41 wage statements including overtime wages, and approximately 1,970 wage statements reflecting payment of overtime wages that were distributed

1 to the 136 putative class members. From this, Plaintiff estimated the penalties as approximately
2 \$762,200.00, which was based on 143 employees x \$4,000 (maximum penalties) + [(1,970 pay
3 periods x \$100) – (136 employees x \$50)]. Labor Code § 226(e).

4 13. Moreover, Defendant disputes the class and PAGA claims asserted by Plaintiff on
5 the merits. Specifically, Defendant believes that all wage statements it issued to Plaintiff and
6 other hourly, non-exempt employees in California during the relevant period complied with all
7 requirements of Labor Code § 226, including correctly listing the hours worked (including
8 overtime hours), the corresponding applicable rates of pay, and the total hours worked.
9 Defendant also argues that, if any technical violations occurred, such violations were not
10 “knowing and intentional” and thus would not warrant Section 226(e) penalties. *See Harris v.*
11 *Vector Mktg. Corp.*, 656 F. Supp. 2d 1128, 1145-46 (N.D. Cal. 2009) (granting summary
12 judgment in favor of employer and finding its conduct was not “knowing and intentional”).
13 Defendant has maintained that any such technical violations are subject to “good faith dispute”
14 defense in light of the existence of a good faith dispute regarding Plaintiff’s asserted theory of
15 liability in the absence of on-point, controlling authority, and extensive case law supporting its
16 wage statement practices. *See, e.g., Naranjo v. Spectrum Sec. Servs., Inc.*, No. S279397, 2024
17 WL 1979980, at *1 (Cal. May 6, 2024); *Apodaca v. Costco Wholesale Corp.*, 2014 WL 2533427,
18 at *3 (C.D. Cal. June 5, 2014) (“Where an employer has a good faith belief that it is not in
19 violation of Section 226, any violation is not knowing and intentional.”); *Wright v. Adventures*
20 *Rolling Cross Country, Inc.*, 2013 WL 1758815, at *9 (N.D. Cal. Apr. 24, 2013) (same);
21 *Ricaldai v. U.S. Investigations Servs., LLC*, 878 F. Supp. 2d 1038, 1047 (N.D. Cal. 2012)
22 (same); *Dalton v. Lee Publ’ns, Inc.*, 2011 WL 1045107, at *5 (S.D. Cal. Mar. 22, 2011) (same).
23 Moreover, as of September 15, 2023, Defendant changed the format of the wage statements it
24 issues to its hourly, non-exempt employees which effectively moots Plaintiff’s theory of liability
25 from that date forward. Finally, Defendant asserts that Plaintiff would be unable to represent the
26 purported class population alleged in the FAC, given that 70% of them had executed Defendant’s
27 Dispute Resolution Policy (“DRP”), which is a binding arbitration agreement that includes an
28 enforceable class action waiver, and therefore requires them to submit the claims at issue in this

1 action to individual, binding arbitration.

2 14. With respect to potential liability of Plaintiff's PAGA claims, Plaintiff estimated
3 that Defendant could face civil penalties of up to \$1,121,100.00 (~11,211 pay periods x \$100).
4 This amount is calculated based on the PAGA's initial \$100 penalty for each aggrieved
5 employee per pay period, based on the *Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334
6 (2021) decision, in which the Court held that the \$100 penalty applies to PAGA claims. While
7 the PAGA provides for a heightened penalty for a "subsequent violation," courts are hesitant to
8 award the heightened penalty absent a showing of a prior violation. *Amaral v. Cintas Corp. No.*
9 *2*, 163 Cal. App. 4th 1157, 1209 (2008); accord *Amalgamated Transit Union Local 1309 v.*
10 *Laidlaw Transit Service, Inc.* 2009 WL 2448430, at *9 (S.D. Cal. Aug. 10, 2009) ("[u]nder
11 California law, courts have held that employers are not subject to heightened penalties for
12 subsequent violations unless and until a court or commissioner notifies the employer that it is in
13 violation of the Labor Code"); see also *Bernstein v. Virgin Am., Inc.*, 3 F.4th 1127, 1144 (9th
14 Cir. 2021) (holding no subsequent penalty unless prior citation or court ruling).

15 15. Even assuming that Plaintiff ultimately prevails on his PAGA claims, the Court
16 still has discretion to reduce any PAGA penalties. Pursuant to Labor Code § 2699(e)(2), the
17 Court can decline to award PAGA penalties where "if, based on the facts and circumstances of
18 the particular case, to do otherwise, would result in an award that is unjust, arbitrary and
19 oppressive, or confiscatory." Indeed, as shown in the Court of Appeal's decision in *Carrington v.*
20 *Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), while the plaintiff prevailed on his PAGA claim
21 upon trial, the trial court reduced the maximum PAGA penalty amount by 90%, citing the
22 employer's good faith attempt at complying with the law. *Id.* at p. 517. Upon review, the Court
23 of Appeal found such reduction to be proper. *Id.* at p. 539.

24 16. Based on the data provided by Defendant, Plaintiff's counsel estimated total
25 damages and penalties to be as high as \$1,883,300.00 if the Court awarded full penalties on both
26 Plaintiff's class and PAGA claims. Therefore, Plaintiff's settlement of \$315,000.00 is
27 approximately 16.7% of the total estimated liability. If the Court were to reduce the maximum
28 PAGA penalties by 90%, as was done in *Carrington*, the settlement value is an even higher

percentage of the potentially available recovery.

17. Although Plaintiff believes that the class can be certified, Plaintiff also believes in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff involved in not prevailing on one or more of the causes of action or theories alleged in the operative complaint, the possibility of non-certification, and the potential for appeals. These risks on class certification are compounded by the California Supreme Court's holding in *Duran v. U.S. Bank Nat'l Ass'n*, 59 Cal. 4th 1 (2014). There, the plaintiffs obtained class certification and subsequently prevailed at trial after eight years of litigation, but the judgment and the certification ruling were reversed by the California Supreme Court after an additional five years of litigation. The case was remanded to superior court where class certification was denied and plaintiffs' subsequent appeal also was denied.

18. Pursuant to the Settlement Agreement, the Net Settlement Amount will be apportioned among the Settlement Class Members on a *pro rata* basis, based on the number of wage statements reflecting payment of overtime and/or doubletime wages received by each respective Settlement Class Member during the Class Period, as compared to the total number of wage statements reflecting payment of overtime and/or doubletime wages received by all Settlement Class Members during the Class Period. See Agreement ¶¶ 1.N, 1.Y, 10. Based thereon, on a raw average, each Settlement Class Member potentially may recover approximately \$504.46 on average ($\$141,250.00 \div 280$ Settlement Class Members). The amount actually paid to each Participating Class Member will be higher or lower than this average figure depending on the number of applicable wage statements he or she received during the Class Period and the number of putative class members who choose not to participate in the settlement. See Agreement ¶¶ 1.N, 1.Y, 10.

19. In addition, twenty-five percent (25%) of the PAGA Payment, or \$7,500.00, shall be paid to Aggrieved Employees¹ on a *pro rata* basis, based on the number of wage statements

¹ Aggrieved Employees are defined as "all persons who were employed by FleetPride in California in an hourly, non-exempt position and were paid overtime and/or doubletime wages at any time during the PAGA Period." Agreement ¶ 1.A.

1 reflecting payment of overtime and/or doubletime wages received by each respective Aggrieved
2 Employee during the PAGA Period, as compared to the total number of wage statements
3 reflecting payment of overtime and/or doubletime wages received by all Aggrieved Employees
4 during the PAGA Period. *See* Agreement ¶¶ 1.M, 1.Y, 10. Finally, uncashed checks (upon the
5 expiration date) shall be sent to the California State Controller's Office Unclaimed Property
6 Fund in the name of the Participating Class Member and/or Aggrieved Employee to whom the
7 funds relate. *See* Agreement ¶ 11.A.

8 20. The Settlement Agreement provides for the payment to the Settlement
9 Administrator for the administration of this current settlement. Based on my experience, I
10 believe the quote provided by Phoenix Settlement Administrators for a fee of \$8,500.00 to
11 administer the settlement is reasonable given the scope of services requested.

12 21. Based on their own independent investigation and evaluation, the Parties and their
13 respective counsel are of the opinion that settlement for the consideration and on the terms set
14 forth in the Settlement Agreement is fair, reasonable, and adequate and is in the best interests of
15 the Settlement Class and Defendant in light of all known facts and circumstances and the
16 expenses and risks inherent in litigation.

17 22. From the inception of the case, Class Counsel have zealously represented the
18 interests of the Settlement Class. Class Counsel have engaged in significant meet and confer
19 discussions with opposing counsel to obtain informal data and documents and to discuss the
20 merits of the claims on behalf of the Settlement Class. The settlement was obtained for the
21 benefit of the Settlement Class, as opposed to the individual Class Representative.

22 23. I have spent significant time researching and pursuing the claims that have been
23 alleged in this action. The Parties engaged in informal discovery and exchanged information
24 necessary to evaluate the exposure on the claims alleged. Based on my review of all the
25 documents and information, and based on my experience in class action litigation, I believe this
26 settlement to be fair, adequate, and reasonable.

27 24. I was retained based upon a contingency fee arrangement wherein Plaintiff's
28 counsel agreed to advance all costs and receive no fee unless a recovery was accomplished.

1 Specifically, had Plaintiff failed to prevail in this case, counsel for Plaintiff would have spent a
2 significant amount of time, money, and other resources without any benefit or return. In addition,
3 had Plaintiff also failed to prevail in the present case, Defendant would have been able to seek
4 costs in connection with their defense of the case. I anticipate the actual costs incurred will be
5 less than the amount allotted for in the Settlement Agreement, in which case the balance will
6 revert to the Net Settlement Amount for distribution. Agreement ¶ 8.A.

7 **ATTORNEY EXPERIENCE**

8 25. I am one of the primary attorneys on this matter. My qualifications are as follows:
9 I received a full-tuition scholarship, and graduated from Southwestern Law School in 2013,
10 magna cum laude. I was in the top 5% of my class. During my time at Southwestern, I was a
11 Notes and Comments Editor on the Southwestern Law Review. I also received awards for
12 achieving the highest grade in my class in several courses. In 2012, I was a full-time extern, at
13 the United States District Court for the Central District. Immediately after law school, I taught
14 several courses at Southwestern, including Principles of Legal Analysis and Legal Methods. I
15 taught those courses for approximately four years.

16 26. I practiced civil litigation at Haight Brown & Bonesteel LLP from approximately
17 September 2013, through January 2016. I was third-chair in a federal court jury trial that resulted
18 in a defense verdict in our client's favor on a \$21 million commercial breach of contract dispute.
19 I also regularly litigated cases across the civil litigation spectrum, including employment matters.

20 27. From February 2016, through Fall 2017, I practiced at the international law firm
21 of Arnold & Porter, which had recently merged with Kaye Scholer, LLP. I defended Fortune 50
22 companies in Multi-District Litigation primarily in the product liability sphere. I also
23 successfully drafted an appellate brief in the Ninth Circuit resulting in the reversal of a summary
24 judgment decision regarding trade secret issues, in addition to working in several other practice
25 groups.

26 28. From September 2017, through September 2018, I served as a law clerk to a
27 Judge sitting on the United States District Court, Central District of California. I regularly
28 prepared bench memoranda, on cases involving all types of civil litigation, including regularly

1 working on wage and hour class actions. *See Experian Info. Solutions v. Nationwide Marketing*
2 *Servs. Inc.*, 893 F.3d 1176 (9th Cir. 2018).

3 29. I am currently an associate at the law firm Diversity Law Group, P.C., an
4 employment law firm that has handled numerous wage and hour class and individual actions, on
5 both plaintiff and defense sides. My current practice focuses on employment matters involving
6 both class actions, and single plaintiffs. The firm currently has cases in the Los Angeles Superior
7 Courts, the Orange County Superior Courts, the San Diego County Superior Courts, and the
8 United States District Courts for the Central, Northern, and Eastern Districts of California. I am
9 currently handling, or have handled, numerous wage and hour class action lawsuits with the firm,
10 including, but not limited to: *Agar v. Sensient Natural Ingredients, LLC* (Case No. CV-19-
11 001906, Stanislaus County Superior Court); *Cunningham, et al. v. Diverse Business Solutions*
12 (Case No. CIVDS1817095, San Bernardino County Superior Court); *Heredia v. Eddie Bauer*
13 *LLC* (Case No. 16CV300475, United States District Court, Northern District of California);
14 *Parsons v. Estenson Logistics, LLC* (Case No. 34-2019-00252929, Sacramento County Superior
15 Court); *Wood v. Reeve Trucking Co., Inc.* (Case No. STK-CV-UOE-2018-0004414, San Joaquin
16 County Superior Court); and *Coronel v. Pinnacle Agriculture* (Case No. 18CV004287, Monterey
17 County Superior Court), *Pevey v. Lumber City Corp.* (Case No. CIVDS2010240, San Bernardino
18 County Superior Court), and *Weybrew v. BEI Construction, Inc.* (Case No. FCS055658, Solano
19 County Superior Court), among many others.

20 30. On June 14, 2019, I argued two related cases in front of the Ninth Circuit Court of
21 Appeals. One of them was *Rodriguez v Nike Retail Service Inc.*, Case No. 17-16866. On June 28,
22 2019, the Ninth Circuit issued a published decision, reversing and remanding in favor of our
23 clients. *Rodriguez v. Nike Retail Servs., Inc.*, 928 F.3d 810 (9th Cir. 2019).

24 31. I have also assisted the firm in numerous wage and hour class action mediations.

25 32. My co-counsel and I will adequately represent the Settlement Class Members in
26 this action. Plaintiff's Counsel have and will zealously represent Plaintiff and the Settlement
27 Class and pursue this lawsuit to its conclusion.

28 33. I have no conflicts with the Settlement Class and will adequately represent the

1 Settlement Class.

2 **NOTICE TO THE LWDA**

3 34. On May 8, 2023, Plaintiff submitted written notice of his claims against
4 Defendant to the LWDA.

5 35. On August 9, 2024, Plaintiff uploaded the Settlement Agreement and preliminary
6 approval briefing to the LWDA in conjunction with these filings. Attached hereto as **Exhibit B** is
7 a true and correct copy of the confirmation of submission.

8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct.

10 Executed on this 9th day of August 2024, at Los Angeles, California.

11 
12 _____
13 Max W. Gavron

EXHIBIT A

McGUIREWOODS LLP
Sabrina A. Beldner (SBN 221918)
Email: sbeldner@mcguirewoods.com
David Szwarczstejn (SBN 272371)
Email: dszwarczstejn@mcguirewoods.com
Natalie M. Lagunas, Esq. (SBN 318634)
Email: nlagunas@mcguirewoods.com
1800 Century Park East, 7th Floor
Los Angeles, CA 90067-1501
Telephone: 310.315.8200
Facsimile: 310.315.8210

Attorneys for Defendant
FLEETPRIDE, INC.

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (SBN 228175)
lwlee@diversitylaw.com
Max W. Gavron (SBN 291697)
mgavron@diversitylaw.com
Kwanpom “Mai” Tulyathan (SBN 316704)
ktulyathan@diversitylaw.com
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
Telephone: (213) 488-6555
Facsimile: (213) 488-6554

Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SHASTA**

RYAN MIDDLEBROOKS, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

FLEETPRIDE, INC., an Alabama
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 202247

CLASS AND PAGA ACTION

**JOINT STIPULATION RE: CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT**

Complaint Filed: May 16, 2023

1 This Joint Stipulation re: Class Action and Representative Action Settlement (“Settlement”
2 or “Agreement” or “Settlement Agreement”) is made by and between plaintiff RYAN
3 MIDDLEBROOKS (“Plaintiff”) individually and on behalf of the Settlement Class, on the one
4 hand; and defendant FLEETPRIDE, INC. (“FleetPride”), on the other hand, in the current lawsuit
5 entitled *Ryan Middlebrooks v. FleetPride, Inc.*, filed in Shasta County Superior Court, Case
6 No. 202247 (the “Action”). Plaintiff and FleetPride shall be, at times, collectively referred to as the
7 “Parties.” This Agreement is intended by the Parties to fully, finally, and forever resolve the claims
8 pled in the Action and as otherwise set forth herein, based upon and subject to the terms and
9 conditions of this Agreement.

10 **1. DEFINITIONS**

11 **A. “Action”** means *Ryan Middlebrooks v. FleetPride, Inc.*, Shasta Superior Court Case
12 No. 202247.

13 **B. “Aggrieved Employees”** means all persons who were employed by FleetPride in
14 California in an hourly, non-exempt position and were paid overtime and/or doubletime wages at
15 any time during the PAGA Period (as defined below).

16 **C. “Aggrieved Employees PAGA Payment”** is the twenty-five percent (25%) share of
17 the PAGA Payment, equal to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00),
18 that will be distributed to Aggrieved Employees on a *pro rata* basis based on the Qualifying Wage
19 Statements received by the Aggrieved Employee during the PAGA Period. Any Aggrieved
20 Employee PAGA Payment to an Aggrieved Employee shall be in addition to his or her Individual
21 Settlement Payment if he or she is also a Participating Class Member.

22 **D. “Class Counsel”** means: Larry W. Lee, Max W. Gavron, and Kwanporn “Mai”
23 Tulyathan of Diversity Law Group, P.C. The term “Class Counsel” shall be used synonymously
24 with the term “Plaintiff’s Counsel.”

25 **E. “Class Period”** means the period from May 8, 2022 through September 15, 2023.

26 **F. “Class Notice”** means and refers to the notice sent to Class Members after
27 preliminary approval of the Settlement in the manner described in Paragraph 9 of this Agreement.

28 **G. “Court”** means the Superior Court of the State of California for the County of Shasta.

H. “Final Approval Date” means the later of: (1) the date the Court signs an Order granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there is an objector, 60 days from the date the Final Approval and Judgment; or (3) to the extent any appeals have been filed, the date on which they have been resolved or exhausted.

I. “Defendant” means FleetPride, Inc.

J. “Effective Date” is the date on which this Settlement Agreement shall become effective, and when the settlement is considered to be Final. For purposes of this Settlement Agreement, “Effective Date” and “Final” mean: (i) in the event that the Settlement has received Final Approval by the Court, and regardless of whether any timely objections thereto have been filed or withdrawn, then sixty-five (65) calendar days after the Court’s issuance of the Final Approval Order without a timely appeal being filed; or, (ii) in the event that a timely appeal of the Court’s Final Approval Order has been filed, then the Settlement Agreement shall be “Final” when the applicable appellate court has rendered a final decision or opinion affirming the Court’s Final Approval Order without material modification, and the applicable date for seeking further appellate review has passed without further appellate review being sought. In the event that the Court fails to approve the Settlement, or if the appropriate appellate court fails to approve the Settlement: (1) this Settlement Agreement shall have no force and effect and the Parties shall be restored to their respective positions prior to entering into it, and no Party shall be bound by any of the terms of the Settlement Agreement; (2) Defendant shall have no obligation to make any payments to the LWDA, Class Members, Aggrieved Employees, Plaintiff or Plaintiff’s Counsel; and (3) any preliminary approval order and/or Final Approval Order shall be vacated.

K. “General Release” means the broader release of claims by Plaintiff, which is in addition to Plaintiff’s limited release of claims as a Participating Class Member.

L. “Gross Settlement Amount” means a non-reversionary fund in the sum of Three Hundred Fifteen Thousand Dollars and Zero Cents (\$315,000.00), which shall be paid by FleetPride and from which all payments for the Individual Settlement Payments to Participating Class Members, the Court-approved amounts for attorneys’ fees and reimbursement of litigation costs and expenses to Class Counsel, Settlement Administration Costs, the Service Award, the PAGA

1 Payment, and the LWDA Payment shall be paid. Defendants shall not be obligated to pay any other
2 sums in conjunction with this Settlement except as set forth herein.

3 **M. “Individual PAGA Payment”** means a payment made to an Aggrieved Employee
4 for his or her share of the Aggrieved Employee PAGA Payment, which may be in addition to his or
5 her Individual Settlement Share if he or she is also a Participating Class Member.

6 **N. “Individual Settlement Payment”** means a payment to a Participating Class
7 Member of his or her net share of the Net Settlement Amount.

8 **O. “Individual Settlement Share”** means the gross amount of the Net Settlement
9 Amount that a Participating Class Member is projected to receive based on the number of Qualifying
10 Wage Statements that he or she received as a Settlement Class Member during the Class Period,
11 which shall be reflected in his or her Class Notice.

12 **P. “LWDA Payment”** means the payment to the State of California Labor and
13 Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the PAGA
14 Payment, equivalent to Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00)

15 **Q. “Net Settlement Amount”** means the portion of the Gross Settlement Amount that
16 is available for distribution to the Participating Class Members after deductions for the Court-
17 approved allocations for Settlement Administration Costs, a Service Award to Plaintiff, an award of
18 attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel, and the PAGA
19 Payment.

20 **R. “Operative Complaint” or “Complaint”** means the First Amended Complaint filed
21 in *Middlebrooks v. FleetPride, Inc.*, in the Shasta County Superior Court, Case No. 202247.

22 **S. “PAGA Payment”** is the gross amount of Thirty Thousand Dollars and Zero Cents
23 (\$30,000.00) that is allocated toward PAGA penalties under this Agreement, all of which is payable
24 from the Gross Settlement Amount. Out of the PAGA Payment, seventy-five percent (75%),
25 equivalent to Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00), will be
26 paid to the LWDA (*i.e.*, the LWDA Payment), and twenty-five percent (25%), equivalent to Seven
27 Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), will be paid to Aggrieved Employees
28 on a *pro rata* basis based on the number of Qualifying Wage Statements received by the Aggrieved

Employee during the PAGA Period (*i.e.* the Aggrieved Employee PAGA Payment).

T. “PAGA Period” means the period from May 8, 2022 through September 15, 2023.

U. “Participating Class Members” means all Settlement Class Members who do not submit a timely and valid Request for Exclusion. Settlement Class Members who are not Participating Class Members will still be eligible to receive an Individual PAGA Payment if such individual(s) qualify as an “Aggrieved Employee” within the meaning of this Settlement Agreement.

V. “Participating Individual Settlement Share” means the gross amount of the Net Settlement Amount that a Participating Class Member is eligible to receive based on the number of Qualifying Wage Statements he or she received as a Settlement Class Member during the Class Period once all opt-outs have been factored in. A Participating Class Member’s Participating Individual Settlement Share excludes any Individual PAGA Payment to which he or she may be entitled if he or she is also an Aggrieved Employee.

W. “Plaintiff,” “Named Plaintiff,” or “Class Representative” shall refer to plaintiff Ryan Middlebrooks.

X. “Preliminary Approval Date” means the date on which the Court enters an Order granting preliminary approval of the Settlement.

Y. “Qualifying Wage Statement” means a wage statement that reflects payment of overtime and/or doubletime wages issued during the Class and/or PAGA Period.

Z. “Released Parties” shall mean FleetPride and its past, present, and future subsidiaries, dba’s, affiliates, parents, insurers and reinsurers, and company-sponsored employee benefit plans of any nature and their successors and predecessors in interest, including all of their officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, attorneys, administrators, fiduciaries, trustees, and agents.

AA. “Response Deadline” means the deadline for Settlement Class Members to mail any Requests for Exclusion, Objections, or Qualifying Wage Statement Disputes to the Settlement Administrator, which is forty-five (45) calendar days from the date that the Class Notice is first mailed by the Settlement Administrator, unless a Class Member’s notice is re-mailed. In such an

1 instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing, or forty-
2 five (45) calendar days from the date of the initial mailing, whichever is later, in which to postmark
3 a Request for Exclusion, Qualifying Workweek Dispute or Objection. The date of the postmark
4 shall be the exclusive means for determining whether a Request for Exclusion, Objection, or
5 Qualifying Wage Statement Dispute was submitted by the Response Deadline.

6 **BB. “Request for Exclusion”** means a written request to be excluded from the Settlement
7 Class pursuant to Paragraph 9.C below.

8 **CC. “Service Award”** means monetary amounts to be paid to Plaintiff of up to Ten
9 Thousand Dollars and Zero Cents (\$10,000.00), which subject to Court approval, will be paid out
10 of the Gross Settlement Amount.

11 **DD. “Settlement Administration Costs”** means all costs incurred by the Settlement
12 Administrator in administration of the Settlement, including, but not limited to, distribution of the
13 Settlement Class Notice, calculating Individual Settlement Shares, Individual Settlement Payments,
14 Individual PAGA Payments, and Participating Individual Settlement Shares, providing declarations,
15 generating Individual Settlement Payment checks and related tax reporting forms, doing
16 administrative work related to unclaimed checks, transmitting payment to Class Counsel for the
17 Court-approved amounts for attorneys’ fees and reimbursement of litigation costs and expenses, to
18 Plaintiff for his Service Award, and to the LWDA for the LWDA Payment, providing weekly reports
19 of opt-outs, objections and related information, and any other actions of the Settlement
20 Administrator as set forth in this Agreement, all pursuant to the terms of this Agreement. The
21 Settlement Administration Costs are estimated not to exceed \$8,500.00. If the actual amount of the
22 Settlement Administration Costs is less than \$8,500.00, the difference between \$8,500.00 and the
23 actual Settlement Administration Costs shall be a part of the Net Settlement Amount. If the
24 Settlement Administration Costs exceed \$8,500.00, then such excess will be paid solely from the
25 Gross Settlement Amount and Defendant will not be responsible for paying any additional funds in
26 order to pay these additional costs.

27 **EE. “Settlement Administrator”** means the Third-Party Administrator mutually agreed
28 upon by the Parties, which is Phoenix Settlement Administrators, that will be responsible for the

1 administration of the Settlement including, without limitation, distribution of the Class Notice and
2 distribution of the Individual Settlement Payments to be made by FleetPride from the Gross
3 Settlement Amount and related matters under this Agreement.

4 **FF. “Settlement Class” or “Settlement Class Members”** means all persons who were
5 employed by FleetPride in California in an hourly, non-exempt position and who were paid overtime
6 and/or doubletime wages at any time during the Class Period.

7 **2. BACKGROUND**

8 **A.** On May 4, 2023, Plaintiff filed with the LWDA and served on FleetPride a notice
9 under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to
10 recover civil penalties on behalf of the Aggrieved Employees for alleged violations of Labor Code
11 section 226 (the “PAGA Notice”).

12 **B.** On May 16, 2023, Plaintiff filed this Action, styled as a putative wage-and-hour class
13 action which asserted a single cause of action and alleged that, during the Class Period, FleetPride
14 failed to provide complete and accurate itemized wage statements to Plaintiff and the Class
15 Members in violation of Labor Code § 226 (the “Action”).

16 **C.** On July 12, 2023, Plaintiff filed the operative First Amended Complaint which added
17 a second cause of action for civil penalties under PAGA based on the same purported Labor Code
18 § 226 violations underpinning the first cause of action (the “FAC” or “Operative Complaint”).

19 **D.** Shortly thereafter, the Parties agreed to exchange informal discovery and attend a
20 mediation, in advance of which Class Counsel was provided with, among other things:
21 (1) FleetPride’s relevant policies; (2) copies of all wage statements issued to Plaintiff; and
22 (3) relevant data points including the number of non-exempt employees employed during the class
23 and PAGA periods, and the corresponding number of wage statements issued to them that included
24 overtime and/or doubletime wages.

25 **E.** On November 28, 2023, the Parties participated in a full-day mediation before Phillip
26 Cha, Esq., a well-regarded mediator experienced in mediating complex labor and employment
27 matters. The Parties reached an agreement at the mediation by accepting a mediator’s proposal, and
28 they reached the Settlement to resolve the Action on the terms set forth in this Agreement.

1 **F.** Class Counsel has conducted significant investigation of the law and facts relating to
2 the claims asserted in the Action and the PAGA Notice, and have concluded that that the Settlement
3 set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement Class, taking
4 into account the sharply contested issues involved, the expense and time necessary to litigate the
5 Action through trial and any appeals, the risks and costs of further litigation of the Action, the risk
6 of an adverse outcome, the uncertainties of complex litigation, the information learned through
7 informal discovery regarding Plaintiff's allegations, and the substantial benefits to be received by
8 Settlement Class Members.

9 **G.** FleetPride has concluded that, because of the substantial expense of defending
10 against the Action, the length of time necessary to resolve the issues presented herein, the
11 inconvenience involved, and the concomitant disruption to its business operations, it is in its best
12 interest to accept the terms of this Agreement. FleetPride denies each of the allegations and claims
13 asserted against it in the Action and the PAGA Notice. However, FleetPride nevertheless desires to
14 settle the Action for the purpose of avoiding the burden, expense and uncertainty of continuing
15 litigation and for the purpose of putting to rest the controversies engendered by the Action.

16 **H.** This Agreement is intended to and does effectuate the full, final, and complete
17 resolution of all Class Released Claims of Plaintiff and Participating Class Members, and all PAGA
18 Released Claims of Plaintiff and, to the extent permitted by law, of the State of California and
19 Aggrieved Employees. The Plaintiff identified herein is also providing a General Release, as that
20 term is defined herein and set forth in Paragraph 7.D of this Settlement Agreement.

21 **3. JURISDICTION**

22 The Court has jurisdiction over the Parties and the subject matter of the Action. The Action
23 includes claims that, if proven, would authorize the Court to grant relief pursuant to the applicable
24 statutes. After the Court has granted Final Approval of the Settlement and entered judgment, the
25 Court shall retain jurisdiction over the Parties to enforce the terms of the judgment pursuant to
26 California Rule of Court, rule 3.769, subdivision (h).

1 **4. STIPULATION OF CLASS CERTIFICATION**

2 The Parties stipulate to the certification of the Settlement Class under this Agreement for
3 purposes of settlement only.

4 **5. MOTIONS FOR APPROVAL OF SETTLEMENT**

5 After full execution of this Agreement, Plaintiff will move for an order granting preliminary
6 approval of the Settlement, and approving and directing the mailing of the proposed Notice of Class
7 Action Settlement (“Class Notice”) attached hereto as **Exhibit A**, conditionally certifying the
8 Settlement Class for settlement purposes only, and approving the deadlines proposed by the Parties
9 for the submission of Requests for Exclusion, Qualifying Workweek Disputes, and Objections. If
10 and when the Court preliminarily approves the Settlement, and after administration of the Class
11 Notice in a manner consistent with the Court’s Preliminary Approval Order, Plaintiff will move for
12 an order finally approving the Settlement and seek entry of a Judgment in line with this Settlement.
13 The Parties may both respond to any Objections lodged to final approval of the Settlement up to
14 five (5) court days before the Final Approval Hearing.

15 Following the execution of this Settlement Agreement, Plaintiff’s counsel will submit near-
16 final drafts of the motion for preliminary approval (including all supporting papers, declarations,
17 and proposed order) to counsel for FleetPride for their review and comment no less than three (3)
18 court days before the motion is due to be filed. Counsel for FleetPride will provide their comments
19 to the draft motion for preliminary approval and supporting papers as soon as reasonably possible
20 following receipt. The Parties will finalize the motion for preliminary approval and supporting
21 papers thereafter. Plaintiff’s counsel shall also submit near-final drafts of the motion for final
22 approval (including all supporting papers, declarations, and proposed order) to counsel for
23 FleetPride for their review and comment no less than three (3) court days before the motion is due
24 to be filed. Counsel for FleetPride will provide their comments as soon as reasonably possible
25 following receipt.

26 For purposes of settlement only, the Parties agree that all statutes of limitations shall be
27 waived with respect to the claims asserted in the FAC, with all such limitations to run from the
28 earliest possible date based on the filing of the Action and the sending of the PAGA Notice. In the

1 event the Court does not grant final approval of the settlement, then the original limitations periods
2 shall apply.

3 **6. STATEMENT OF NO ADMISSION**

4 FleetPride denies any wrongdoing of any sort and further denies any liability to Plaintiff and
5 the Settlement Class and/or Aggrieved Employees with respect to any claims or allegations asserted
6 in the Action and the PAGA Notice. This Agreement shall not be deemed an admission by
7 FleetPride of any claims or allegations asserted in the Action and/or the PAGA Notice. Except as
8 set forth elsewhere herein, in the event that this Agreement is not approved by the Court, or any
9 appellate court, is terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to
10 have waived, limited or affected in any way any claims, rights or remedies, or defenses in the Action
11 or the PAGA Notice, and FleetPride will not be deemed to have waived, limited, or affected in any
12 way any of its objections or defenses in the Action and the PAGA Notice. The Parties shall be
13 restored to their respective positions in the Action prior to the entry of this Settlement.

14 **7. RELEASE OF CLAIMS**

15 **A. Release by All Participating Class Members.**

16 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
17 of Judgment, and payment by FleetPride to the Settlement Administrator of the full Gross Settlement
18 Amount, Plaintiff and all Participating Class Members release the Released Parties for the duration
19 of the Class Period of any and all claims that have been or could reasonably have been asserted
20 based on the factual allegations in the Operative First Amended Complaint for alleged failure to
21 furnish complete and accurate wage statements in violation of Labor Code § 226, and all other
22 claims for relief, including damages, statutory and/or civil penalties, equitable and/or injunctive
23 relief, attorneys' fees, interest, costs, and any other kind of relief whatsoever that could be sought
24 based on the factual allegations and theories of liability asserted in the Operative First Amended
25 Complaint (the "Class Released Claims").

26 **B. PAGA Release by All Aggrieved Employees**

27 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
28 of Judgment, and payment by FleetPride to the Settlement Administrator of the full Gross Settlement

1 Amount, Plaintiff, the Aggrieved Employees, and, to the extent permitted by law, the State of
2 California, release the Released Parties for the duration of the PAGA Period from all claims alleged
3 in the PAGA Notice and the Operative First Amended Complaint for PAGA civil penalties pursuant
4 to Labor Code sections 226, 226.3 and 2698, et seq. in connection with alleged violations of Labor
5 Code section 226 for alleged failure to furnish complete and accurate wage statements (the “PAGA
6 Released Claims”). The Class Released Claims and PAGA Released Claims shall be collectively
7 referred to herein as the “Released Claims.”

8 **C. Claims Not Released**

9 The Released Claims expressly excludes all other claims, including claims for vested
10 benefits, wrongful termination, unemployment insurance, disability, social security, workers’
11 compensation, and any other claims outside of the Class Released Claims of Participating Class
12 Members arising during the Class Period and the PAGA Released Claims of Aggrieved Employees
13 (and, to the extent permitted by law, the State of California) arising outside of the PAGA Period.

14 **D. General Release**

15 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
16 of Judgment, and payment by FleetPride to the Settlement Administrator selected of the full Gross
17 Settlement Amount, in addition to the Release provided by the Plaintiff in Paragraphs 7.A. and 7.B.
18 of this Agreement, Plaintiff makes the additional following General Release: Plaintiff releases the
19 Released Parties from all claims, demands, rights, liabilities and causes of action of every nature
20 and description whatsoever, known or unknown, asserted or that might have been asserted, whether
21 in tort, contract, or for violation of any state or federal statute, rule, law or regulation arising out of,
22 relating to, or in connection with any act or omission of the Released Parties through the date of
23 final approval of this Agreement in connection with Plaintiff’s employment with FleetPride or the
24 termination thereof, except for any and all other claims that may not be released as a matter of law
25 through this Agreement. To the extent of the General Release provided herein, Plaintiff stipulates
26 and agrees that, upon entry of an Order granting Final Approval of the Settlement, entry of
27 Judgment, and payment by FleetPride to the Settlement Administrator selected of the full Gross
28 Settlement Amount, he shall have expressly waived and relinquished, to the fullest extent permitted

1 by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other
2 similar provision under federal or state law, which provides:

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

8 **8. SETTLEMENT ADMINISTRATOR**

9 A. Plaintiff and FleetPride, through their respective counsel, have selected Phoenix
10 Settlement Administrators to administer the Settlement, which includes but is not limited to:
11 distributing the Class Notice; distributing and responding to inquiries about the Class Notice;
12 calculating all amounts to be paid from the Gross Settlement Amount; and distribution of the Gross
13 Settlement Amount according to the terms of this Agreement. Charges and expenses of the
14 Settlement Administrator, currently estimated to be \$8,500.00 will be paid from the Gross
15 Settlement Amount. If the actual amount of the Settlement Administration Costs is less than
16 \$8,500.00, the difference between \$8,500.00 and the actual Settlement Administration Costs shall
17 be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed \$8,500.00,
18 then such excess will be paid solely from the Gross Settlement Amount and Defendant will not be
19 responsible for paying any additional funds in order to pay these additional costs, unless the Parties
20 agree or the Court determines that the added cost is the result of a substantial material change in the
21 size of the putative class as represented by Defendant for purposes of obtaining the estimate from
22 the Settlement Administrator.

23 **9. NOTICE, WORKWEEK DISPUTE, OBJECTION, AND EXCLUSION**
24 **PROCESS**

25 **A. Notice to the Settlement Class Members**

26 (1) Within thirty (30) days after the Preliminary Approval Date, Counsel for
27 FleetPride shall provide the Settlement Administrator with information with respect to each
28 Settlement Class Member and/or Aggrieved Employee, including his or her: (1) name; (2) last
known address(es) currently in FleetPride's possession, custody, or control; (3) last known

1 telephone number(s) currently in FleetPride's possession, custody, or control; (4) last known Social
2 Security Number(s) in FleetPride's possession, custody, or control; (5) the dates of employment
3 (*i.e.*, hire dates, and, if applicable, re-hire date(s) and/or separation date(s)); and (6) the number of
4 Qualifying Wage Statements issued to Settlement Class Member and/or Aggrieved Employee (as
5 applicable) for the Class Period and/or PAGA Period (as applicable) (hereafter, the "Class List").
6 The final Class List will be designated as Highly Confidential, Attorneys' Eyes Only, pursuant to a
7 Court-approved and entered Stipulated Protective Order to be submitted by the Parties in the Action
8 prior to the filing of the motion for preliminary approval, and provided by FleetPride after the
9 Settlement Administrator signs and returns to Counsel for FleetPride the Acknowledgment and
10 Agreement to be Bound attached as Exhibit A to such Protective Order. The final Class List shall
11 be used only by the Settlement Administrator and only for purposes of administering the Settlement
12 and shall not be provided to Class Counsel, and nothing in this Settlement Agreement limits the use
13 of it for that purpose. The Settlement Administrator shall perform an address search using the
14 United States Postal Service National Change of Address ("NCOA") database and update the
15 addresses contained on the Class List with the newly-found addresses, if any. Within seven (7)
16 calendar days, or soon thereafter, of receiving the Class List from FleetPride, the Settlement
17 Administrator shall mail the Class Notice to the Settlement Class Members via first-class regular
18 U.S. Mail using the most current mailing address information available. The Settlement
19 Administrator shall maintain the Class List and digital copies of all the Settlement Administrator's
20 records evidencing the giving of notice to any Settlement Class Member and/or other records
21 pertaining to its administration of the Settlement (including, without limitation, records pertaining
22 to Class Member queries, requests for exclusions, opt-outs, Qualifying Wage Statements Disputes,
23 and undeliverable mailing), for at least four (4) years from the Final Approval Date.

24 (2) The proposed Class Notice will include verbiage jointly agreed to by the
25 Parties and will set forth:

- 26 (a) the Settlement Class Member's estimated Individual Settlement
27 Payment and Individual PAGA Payment, as applicable, and the basis
28 for each;

- 1 (b) the information required by California Rule of Court, rule 3.766,
2 subdivision (d);
- 3 (c) the material terms of the Settlement;
- 4 (d) the proposed Settlement Administration Costs;
- 5 (e) the definition of the Settlement Class;
- 6 (f) a statement that the Court has preliminarily approved the Settlement;
- 7 (g) how the Settlement Class Member can obtain additional information,
8 including contact information for Class Counsel;
- 9 (h) information regarding opt-out, objection and dispute procedures;
- 10 (i) the date and location of the Final Approval Hearing; and
- 11 (j) that the Settlement Class Member must notify the Settlement
12 Administrator no later than the Response Deadline if the Settlement
13 Class Member disputes the accuracy of the number of Qualifying
14 Wage Statements as set forth on his or her Class Notice (“Qualifying
15 Wage Statements Dispute”). If a Settlement Class Member fails to
16 timely dispute the number of Qualifying Wage Statements attributed
17 to him or her in conformity with the instructions in the Class Notice,
18 then he or she shall be deemed to have waived any objection to its
19 accuracy and any claim to any additional settlement payment based
20 on different data.

21 (3) If a Class Notice from the initial notice mailing is returned as undeliverable,
22 the Settlement Administrator will attempt to obtain a current address for the Settlement Class
23 Member to whom the returned Class Notice had been mailed, within five (5) calendar days of receipt
24 of the returned Class Notice, by: (1) contacting the Settlement Class Member by phone, if possible,
25 and (2) undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new
26 address, it will promptly re-mail the Class Notice to the Settlement Class Member. Further, any
27 Class Notices that are returned to the Settlement Administrator with a forwarding address before the
28 Response Deadline shall be promptly re-mailed to the forwarding address affixed thereto.

1 (4) No later than seven (7) calendar days after the Response Deadline, the
2 Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the
3 completion of the notice process, including the number of attempts to obtain valid mailing addresses
4 for and re-sending of any returned Class Notices, as well as the identities, number of, and copies of
5 all Requests for Exclusion and Objections received by the Settlement Administrator, if any.

6 **B. Objections.**

7 Only Participating Class Members may object to the Class Settlement; neither Participating
8 Class Members nor PAGA Aggrieved Employees may object to the PAGA settlement. In order for
9 any Settlement Class Member to object to this Class Settlement in writing, or any term of it, he or
10 she must do so by mailing a written objection to the Settlement Administrator at the address
11 provided on the Class Notice, with such objection postmarked no later than the Response Deadline.
12 The Settlement Administrator shall email a copy of the Objection forthwith to Class Counsel and
13 counsel for FleetPride and attach copies of all Objections to the Declaration it provides Class
14 Counsel, which Class Counsel shall file in support of Plaintiff's Motion for Final Approval. To be
15 valid, the Objection must be timely submitted and must set forth the following in writing: (1) the
16 Objector's name; (2) the Objector's address; (3) the last four digits of the Objector's Social Security
17 Number; (4) the Objector's signature; (5) a statement of whether the Objector plans to appear at the
18 Final Approval Hearing; and (6) the reason(s) for the Objection, along with whatever legal authority,
19 if any, the Objector asserts in support of the Objection. If a Settlement Class Member objects to the
20 Class Settlement, the Settlement Class Member will remain a member of the Settlement Class and
21 if the Court approves this Agreement, the Settlement Class Member will be bound by the terms of
22 the Settlement in the same way and to the same extent as a Settlement Class Member who does not
23 object. The date of mailing of the Class Notice to the objecting Settlement Class Member shall be
24 conclusively determined according to the records of the Settlement Administrator. Settlement Class
25 Members need not object in writing to be heard at the Final Approval Hearing; they may object or
26 comment in person at the hearing at their own expense. Class Counsel and counsel for FleetPride
27 may respond to any objection lodged with the Court up to five (5) court days before the Final
28 Approval Hearing.

1 **C. Requesting Exclusion.**

2 Any Settlement Class Member may request exclusion from (*i.e.*, to “opt out” of) the Class
3 Settlement by mailing a written request to be excluded from the Class Settlement (“Request for
4 Exclusion”) to the Settlement Administrator, postmarked on or before the Response Deadline. To
5 be valid, a Request for Exclusion must be timely submitted and must include the following in
6 writing: (1) the Class Member’s name; (2) the Class Member’s Social Security Number; (3) the
7 Class Member’s signature; and (4) a statement that the Class Member seeks to be excluded from the
8 Settlement Class using the same or any other language standing for the proposition the Class
9 Member seeks to be excluded from the Settlement Class: “Please exclude me from the Settlement
10 Class in the *Middlebrooks v. FleetPride, Inc., et al.* matter. I understand that by requesting
11 exclusion, I will not participate in the class settlement and will not receive any money from the class
12 settlement.” The Settlement Administrator shall immediately provide copies of all Requests for
13 Exclusion to Class Counsel and counsel for FleetPride and shall report the Requests for Exclusions
14 that it receives, to the Court, in its declaration to be provided in advance of the Final Approval
15 Hearing. Any Settlement Class Member who timely and properly requests exclusion from the
16 Settlement Class using this procedure will not be entitled to receive any Individual Settlement Share
17 from the Settlement and will not be bound by the Settlement Agreement or have any right to object
18 to, appeal, or comment on the Settlement as it relates to the Class Settlement and Class Released
19 Claims. Any Settlement Class Member who does not opt out of the Settlement Class by submitting
20 a timely and valid Request for Exclusion will be bound by all terms of the Settlement, including
21 those pertaining to the Class Released Claims, as well as any Judgment that may be entered by the
22 Court if Final Approval of the Class Settlement is granted. A Settlement Class Member cannot
23 submit both a Request for Exclusion and an objection. If a Settlement Class Member submits an
24 Objection and a Request for Exclusion, the Request for Exclusion will control and the Objection
25 will be overruled. Settlement Class Members who worked during the PAGA Period as Aggrieved
26 Employees that submit a valid Request for Exclusion from the Settlement Class will still be deemed
27 to be Aggrieved Employees, will still receive their Individual PAGA Payments, and will be bound
28 by the release of the PAGA Released Claims.

D. Disputes Regarding Settlement Class Members' Qualifying Wage Statements

Data.

Each Settlement Class Member may dispute the number of Qualifying Wage Statements attributed to him or her with respect to the Individual Settlement Share on his or her Class Notice ("Qualifying Wage Statements Dispute"). Any such disputes must be in writing and mailed to the Settlement Administrator by the Settlement Class Member, postmarked on or before the Response Deadline. To be valid, a Qualifying Wage Statements Dispute must be timely submitted and must include the following in writing: (1) the Class Member's name, current mailing address, telephone number, the last four digits of his/her social security number, and his/her signature; (2) a statement indicating that the Class Member seeks to dispute the number of Qualifying Wage Statements credited to him or her, the time period(s) he or she worked for FleetPride during the Class Period, and the number of Qualifying Wage Statements that he or she contends should be credited to him or her; and (3) documentation and/or other facts supporting the Class Member's position. The Settlement Administrator shall immediately provide copies of all Qualifying Wage Statements Disputes (if any) to Class Counsel and counsel for FleetPride. In response to any timely Qualifying Wage Statements Dispute, FleetPride will first verify the information contained in the disputing Class Member's personnel file and FleetPride's payroll records. Unless the Class Member can establish that the number of Qualifying Wage Statements credited to him or her is incorrect, by providing documentation in support thereof or other details to substantiate his or her position, the total number of Qualifying Wage Statements established by FleetPride's records will control. Class Counsel and counsel for FleetPride will then make a good faith effort to resolve the dispute informally before the Final Approval Hearing. If counsel for the Parties cannot agree, the dispute shall be resolved by the Settlement Administrator before the Final Approval Hearing, who shall examine the records provided by FleetPride and the Class Member and shall be the final arbiter of disputes relating to a Class Member's Qualifying Wage Statements. The Settlement Administrator's determination regarding any such dispute shall be final for purposes of administering notice of the Settlement, subject to final review, determination, and approval by the Court.

1 **10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA**
2 **PAYMENTS**

3 Individual Settlement Payments will be calculated and distributed to Participating Class
4 Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class
5 Members' respective number of Qualifying Wage Statements during the Class Period. Individual
6 PAGA Payments to Aggrieved Employees will be calculated and distributed to Aggrieved
7 Employees from the Aggrieved Employee PAGA Payment on a *pro rata* basis based on Aggrieved
8 Employees' respective number of Qualifying Wage Statements during the PAGA Period. Specific
9 calculations of the Individual Settlement Shares and Individual PAGA Payments to Aggrieved
10 Employees will be made as follows:

11 **A. The Total Number of Qualifying Wage Statements.**

12 The Total Number of Qualifying Wage Statements issued to each Settlement Class
13 Member during the Class Period ("Class Member's Wage Statements"), as well as the aggregate
14 number of Qualifying Wage Statements issued to all Settlement Class Members during the Class
15 Period ("Class Wage Statements"), shall be determined from FleetPride's records and shall be
16 included on the Class List provided by FleetPride. Additionally, the total number of Qualifying
17 Wage Statements issued to each Aggrieved Employee during the PAGA Period ("Aggrieved
18 Employee's Qualifying Wage Statements"), as well as the aggregate number of Qualifying Wage
19 Statements issued to all Aggrieved Employees during the PAGA Period ("PAGA Qualifying
20 Wage Statements"), shall be determined from FleetPride's records and shall be included on the
21 Class List provided by FleetPride.

22 **B. To determine each Participating Class Member's Participating Individual Class**
23 **Settlement Share, the Settlement Administrator will determine the aggregate number of**
24 **Qualifying Wage Statements issued to all Participating Class Members during the Class Period**
25 **("Total Participating Class Member Qualifying Wage Statements") and use the following formula:**
26 **Individual Settlement Share = (Individual Participating Class Member's Qualifying Wage**
27 **Statements ÷ Total Participating Class Member Qualifying Wage Statements) × Net Settlement**
28 **Amount.**

1 C. To determine each Aggrieved Employee's Individual PAGA Payment, the
2 Settlement Administrator will use the following formula: Aggrieved Employee's Individual
3 PAGA Payment = (Aggrieved Employee's Qualifying Wage Statements ÷ Total Aggrieved
4 Employee PAGA Qualifying Wage Statements) x Aggrieved Employee PAGA Payment.

5 D. Individual Settlement Payments and Individual PAGA Payments shall be paid to
6 Participating Class Members and/or Aggrieved Employees by way of check. When a Participating
7 Class Member is also an Aggrieved Employee, one check may be issued that aggregates both the
8 Individual Settlement Payment and the Individual PAGA Payment.

9
10
11 **11. DISTRIBUTION OF PAYMENTS**

12 **A. Distribution of Individual Settlement Payments.**

13 Participating Class Members will receive an Individual Settlement Payment and Aggrieved
14 Employees will receive an Individual PAGA Payment as applicable. Individual Settlement
15 Payment and Individual PAGA Payment checks shall remain valid and negotiable for one hundred
16 and eighty (180) calendar days after the date of their issuance. In the event that any checks mailed
17 to Participating Class Members and/or Aggrieved Employees are not cashed, deposited, or
18 otherwise negotiated within the 180-day period, then the checks shall be sent to the California
19 State Controller's Office Unclaimed Property Fund in the name of the individual, and such Class
20 Members and/or Aggrieved Employees shall nevertheless be bound to the Settlement and the Final
21 Approval Order. Thus, there shall be no "Unpaid Residue" subject to the requirements of
22 California Code of Civil Procedure section 384.

23 **B. Funding of Settlement.**

24 Within ten (10) business days following the occurrence of the Effective Date of the
25 Settlement as defined above, FleetPride shall remit payment of the Gross Settlement Amount to the
26 Settlement Administrator pursuant to Internal Revenue Code section 1.468B-1 for deposit in an
27 interest-bearing qualified settlement account ("QSA") with an FDIC insured banking institution, for
28 distribution in accordance with this Agreement and the Court's Orders and subject to the conditions

described herein.

C. Time for Distribution.

Within fifteen (15) calendar days after payment of the full Gross Settlement Amount by FleetPride, or as soon thereafter as practicable, the Settlement Administrator shall distribute Payments from the QSA for: (1) the Service Award to Plaintiff as approved by the Court; (2) the Attorneys' Fees and Cost Award to be paid to Class Counsel, as approved by the Court; (3) the Settlement Administrator Costs, as approved the Court; (4) the LWDA Payment, as approved by the Court; and (5) Individual PAGA Payments as approved by the Court. The balance remaining shall constitute the Net Settlement Amount from which Individual Settlement Payments shall be made to Participating Class Members.

12. ATTORNEYS' FEES AND LITIGATION COSTS

Class Counsel shall apply for, and FleetPride shall not oppose, an award of attorneys' fees of up to 35% of the Gross Settlement Amount, which amounts to One Hundred Ten Thousand, Two Hundred and Fifty Dollars and Zero Cents (\$110,250.00). Class Counsel shall further apply for, and FleetPride shall not oppose, an application or motion by Class Counsel for reimbursement of actual costs associated with Class Counsel's prosecution of this matter as set forth by declaration testimony in an amount up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00). Awards of attorneys' fees and costs shall be paid out of the Gross Settlement Amount, for all past and future attorneys' fees and costs necessary to prosecute, settle, and obtain Final Approval of the settlement in Action. The "future" aspect of the amounts stated herein includes, without limitation, all time and expenses expended by Class Counsel (including any appeals therein). There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from FleetPride for such work unless FleetPride materially breach this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall become a part of the Net Settlement

1 Amount for distribution to Participating Class Members, and any such lesser award shall not be
2 grounds for Plaintiff and/or Class Counsel to terminate the Settlement.

3 **13. SERVICE AWARD TO PLAINTIFF**

4 Named Plaintiff shall seek, and FleetPride shall not oppose, a Service Award in an amount
5 not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) payable to Plaintiff for
6 participation in and assistance with the Action. Any Service Award awarded to Plaintiff shall be
7 paid from the Gross Settlement Amount and shall be reported to Plaintiff on an IRS Form 1099. If
8 the Court approves the Service Award to Plaintiff in less than the amounts sought herein, then the
9 unapproved portion(s) shall become a part of the Net Settlement Amount for distribution to
10 Participating Class Members, and any such lesser award shall not be grounds for Plaintiff and/or
11 Class Counsel to terminate the Settlement.

12 **14. TAXATION AND ALLOCATION**

13 **a.** Each Individual Settlement Share shall be allocated entirely as civil or statutory
14 penalties and interest, to be reported on an IRS Form 1099. Each Individual PAGA Payment shall
15 be allocated entirely as penalties and reported on an IRS Form 1099. Accordingly, the Parties agree
16 that the Individual Settlement Share due to a Participating Class Member will not be subject to
17 reduction for employee-side payroll taxes, and that no employer-side payroll taxes shall be paid or
18 remitted by FleetPride.

19 **b.** Forms 1099 will be timely and correctly prepared and distributed by the Settlement
20 Administrator at times and in the manner required by the Internal Revenue Code of 1986 (the
21 “Code”) and consistent with this Agreement. If the Code, the regulations promulgated thereunder,
22 or other applicable tax law, is changed after the date of this Agreement, the processes set forth in
23 this Section may be modified in a manner to bring FleetPride into compliance with any such
24 changes.

25 **c.** Neither Counsel for Plaintiff nor counsel for FleetPride intend anything contained in
26 this Agreement to constitute advice regarding taxes or taxability, nor shall anything in this
27 Agreement be relied upon as such within the meaning of United States Treasury Department
28 Circular 230 (31 C.F.R. Part 10, as amended) or otherwise. Settlement Class Members and

1 Aggrieved Employees will be responsible for correctly characterizing the compensation that they
2 receive pursuant to the Form 1099 and for payment of any taxes owing on said amount(s).

3 **15. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION AND**
4 **NOTIFICATION TO THE LWDA**

5 The Parties agree to allocate Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the
6 Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five percent
7 (75%) of the amount allocated toward PAGA (\$22,500.00) will be paid to the LWDA, and twenty-
8 five percent (25%) (\$7,500.00) will be distributed to Aggrieved Employees on a *pro rata* basis based
9 upon their respective Qualifying Wage Statements during the PAGA Period.

10 Concurrently with the filing of the motion for preliminary approval of the settlement under
11 this Agreement, Plaintiff and his counsel will comply with all requirements under PAGA to give
12 notice and make submissions regarding the proposed settlement to the LWDA, and promptly
13 provide written evidence thereof to counsel for FleetPride.

14 **16. COURT APPROVAL**

15 This Agreement is contingent upon an order by the Court granting Final Approval of the
16 Settlement, and that the LWDA does not intervene and object to the Settlement. In the event it
17 becomes impossible to secure approval of the Settlement by the Court and the LWDA, the Parties
18 shall be restored to their respective positions in the Action prior to entry of this Settlement, except
19 as otherwise set forth herein. If this Settlement Agreement is voided, not approved by the Court or
20 approval is reversed on appeal, it shall have no force or effect and no Party shall be bound by its
21 terms except to the extent: (a) the Court reserves any authority to issue any appropriate orders when
22 denying approval; and/or (b) there are any terms and conditions in this Settlement Agreement
23 specifically stated to survive the Settlement Agreement being voided or not approved, and which
24 control in such an event.

25 **17. NOTICE OF JUDGMENT**

26 In addition to any duties set out herein, the Settlement Administrator shall provide notice
27 of the Final Judgment entered in the Action by posting the same on its website for a period of no
28 less than one (1) year.

1 **18. WITHDRAWAL FROM SETTLEMENT BASED ON REQUESTS FOR**
2 **EXCLUSION**

3 FleetPride shall retain the right to nullify the Agreement in the event that more than ten
4 percent (10%) of Class Members submit timely and valid Requests for Exclusion. Should the
5 10% threshold for opt outs be exceeded, the Settlement Administrator shall notify lead counsel
6 for all Parties via email immediately, and FleetPride must provide written notice to Class Counsel
7 of its withdrawal within ten (10) calendar days of receiving sufficient information to determine
8 that the opt out rate exceeds 10%. If FleetPride exercises this right, it shall be solely responsible
9 for the costs incurred for settlement administration up to the date of nullification.

10 **19. CONFIDENTIALITY**

11 Except as otherwise agreed in writing between the Parties, both before and following the
12 execution of this Settlement Agreement by the Parties and their counsel, there will be no direct or
13 indirect comment or publication by Plaintiff and Class Counsel of the settlement in terms of
14 affirmative or responsive media statements/comments, press releases or conferences, website
15 postings or content, social media postings or content, other Internet postings or content, subscribed
16 email messages, newsletters, disseminated updates, mass mailings, or any other comment or
17 publication to the press, media or public at large. This shall not apply to or limit the public filing
18 of motions or other case materials by Class Counsel in the Action related to seeking and obtaining
19 Court approval of the proposed settlement and the related awards of attorneys' fees and costs,
20 enhancements and the other relief set forth in this Settlement Agreement, or to communications
21 between Class Counsel and Plaintiff or Settlement Class Members. Class Counsel may otherwise
22 state only that the Action has been settled on terms mutually agreeable to the Parties. The Parties
23 understand and agree that there may be media coverage of the settlement of the Action not initiated
24 by Plaintiff or Class Counsel, directly or indirectly. It is also agreed and understood that the Parties
25 and each and every Settlement Class Member, may disclose the settlement to their families, plus
26 their legal, tax, or accounting advisors, insurance companies, or as required by law, regulatory
27 rules or regulatory requirements. Class Counsel may disclose the names of the Parties in the
28 Action, the venues/case numbers, and settlement details available in the public record, for the

1 limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions or
2 for purposes of seeking approval of an unrelated settlement.

3 **20. SETTLEMENT WEBSITE**

4 The Parties agree that the Settlement Administrator may use U.S. mail and its own website
5 to provide notice and information about the Settlement to Settlement Class Members. Other than
6 the Final Judgment referenced in Paragraph 17 herein, all other references to this Settlement on
7 the Settlement Administrator's website must be taken down within 45 days after the date the
8 Settlement Administrator must remit any unclaimed funds to the State. No information about the
9 Action or the settlement may be posted on Class Counsel's websites or their social media without
10 FleetPride's prior written consent, except as expressly set forth in this Agreement.

11 **21. MISCELLANEOUS PROVISIONS**

12 **A. Interpretation of the Agreement, Governing Law.**

13 This Agreement constitutes the entire agreement between the Parties with respect to its
14 subject matter. Except as expressly provided herein, this Agreement has not been executed in
15 reliance upon any other written or oral representations or terms, and no such extrinsic oral or written
16 representations or terms shall modify, vary or contradict its terms. In entering into this Agreement,
17 the Parties agree that this Agreement is to be construed according to its terms and may not be varied
18 or contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the
19 laws of the State of California, both in its procedural and substantive aspects, without regard to its
20 conflict of law provisions. Any claim arising out of or relating to the Agreement, or the subject
21 matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California
22 for the County of Shasta, and Plaintiff and FleetPride hereby consent to the personal jurisdiction of
23 the Court in the Action over it solely in connection therewith. The foregoing is only limited to
24 disputes concerning this Agreement. The Parties, and each of them, participated in the negotiation
25 and drafting of this Agreement and had available to them the advice and assistance of independent
26 counsel. As such, neither Plaintiff nor FleetPride may claim that any ambiguity in this Agreement
27 should be construed against the other. The Agreement may be modified only by a writing signed
28 by counsel for the Parties and approved by the Court.

1 **B. Further Cooperation.**

2 The Parties and their respective attorneys shall proceed diligently to prepare and execute all
3 documents, to seek the necessary approvals from the Court, and to do all things reasonably necessary
4 to consummate the Settlement as expeditiously as possible. The Parties agree that they will not take
5 any action inconsistent with this Agreement, including, without limitation, encouraging Class
6 Members to opt out of the Settlement. In the event the Court finds that any Party has taken actions
7 inconsistent with the Settlement, including, without limitation, encouraging Class Members to opt
8 out of the Settlement, the Court may take any corrective actions, including enjoining any Party from
9 communicating regarding the Settlement on an *ex parte* basis, issuing (a) corrective notice(s),
10 awarding monetary, issue, evidentiary and/or terminating sanctions against that Party, and/or
11 enforcing this Agreement despite the presence of opt-outs and/or objections.

12 **C. Counterparts.**

13 The Agreement may be executed in one or more actual or non-original counterparts,
14 including via DocuSign, all of which will be considered one and the same instrument and all of
15 which will be considered duplicate originals.

16 **D. Authority.**

17 Each individual signing below warrants that he or she has the authority to execute this
18 Agreement on behalf of the Party for whom or which that individual signs.

19 **D. Binding On Assigns.**

20 This Settlement Agreement shall be binding upon and inure to the benefit of the Parties
21 hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

22 **F. Deadlines Falling on Weekends or Holidays.**

23 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
24 legal holiday, that deadline shall be continued until the following business day.

25 **G. Jurisdiction of the Court.**

26 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
27 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this
28 Settlement Agreement and all orders and judgments entered in connection therewith, and the Parties

1 and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
 2 implementing, and enforcing the settlement embodied in this Settlement Agreement and all orders
 3 and judgments entered in connection therewith. Should either party be required to enforce the terms
 4 of this Settlement Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and
 5 costs.

6 **H. Severability.**

7 In the event that one or more of the provisions contained in this Agreement shall for any
 8 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
 9 unenforceability shall in no way effect any other provision if FleetPride's counsel and Class
 10 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as
 11 if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

12 **IT IS SO AGREED:**

13
 14 Dated: July __, 2024

RYAN MIDDLEBROOKS
 Plaintiff and Class Representative

DocuSigned by:

Baron Oursler

00A0B7F0946B451... JC.

By: Baron Oursler
 Its: SVP - General Counsel

16 Dated: July 17, 2024

17
 18
 19
 20 **AGREED AS TO FORM:**

DIVERSITY LAW GROUP, P.C.

21
 22 Dated: July __, 2024

LARRY W. LEE
 MAX W. GAVRON
 Counsel for Plaintiff Ryan Middlebrooks

McGUIRE WOODS LLP

SABRINA A. BELDNER
 DAVID SZWARCSZTEJN
 Counsel for Defendant
 FleetPride, Inc.

26 Dated: July 17, 2024

1 and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
 2 implementing, and enforcing the settlement embodied in this Settlement Agreement and all orders
 3 and judgments entered in connection therewith. Should either party be required to enforce the terms
 4 of this Settlement Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and
 5 costs.

6 **H. Severability.**

7 In the event that one or more of the provisions contained in this Agreement shall for any
 8 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
 9 unenforceability shall in no way effect any other provision if FleetPride's counsel and Class
 10 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as
 11 if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

12 **IT IS SO AGREED:**

13 Dated: July 11, 2024

DocuSigned by:



RYAN MIDDLEBROOKS

Plaintiff and Class Representative

15 Dated: July __, 2024



BRANDON ALEXANDER LOW

Plaintiff and Class Representative

Its: _____

19 **AGREED AS TO FORM:**

DIVERSITY LAW GROUP, P.C.

21 Dated: July 24, 2024



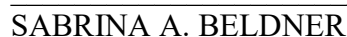
LARRY W. LEE

MAX W. GAVRON

Counsel for Plaintiff Ryan Middlebrooks

MCGUIREWOODS LLP

25 Dated: July __, 2024



SABRINA A. BELDNER

DAVID SZWARCSZTEJN

Counsel for Defendant

FleetPride, Inc.

EXHIBIT A

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND DATE
FOR FINAL APPROVAL HEARING
Middlebrooks v. FleetPride, Inc.
(County of Shasta, California Superior Court Case No. 202247)**

**As a current or former non-exempt, hourly-paid California employee of FleetPride, Inc.
who earned overtime or doubletime, you are entitled to receive money from a class action settlement.**

Please read this Notice carefully. This Notice relates to a proposed settlement of class and representative action lawsuit. If you are a Class Member or an Aggrieved Employee, it contains important information about your right to receive a payment from the Settlement.

You have received this Notice of Class Action Settlement because the records of FleetPride, Inc. (“FleetPride” or “Defendant”) show you are a “Class Member” and/or an “Aggrieved Employee,” and therefore are entitled to a payment from this class and representative action Settlement. Class Members are all persons who were employed by FleetPride in California in an hourly, non-exempt position and were paid overtime and/or doubletime wages at any time between May 8, 2022 and September 15, 2023 (“Class Period” or “Settlement Period”). Aggrieved Employees are all persons who were employed by FleetPride in California in an hourly, non-exempt position and were paid overtime and/or doubletime wages at any time during the PAGA Period, which is defined as May 8, 2022 through September 15, 2023.

- The Settlement is to resolve a class and representative action lawsuit, *Middlebrooks v. FleetPride, Inc., et al.*, pending in the Superior Court of California for the County of Shasta, Case Number 202247 (the “Lawsuit”), alleging, among other things, that, during the Class Period, FleetPride, as it pertains to Class Members, failed to provide complete and accurate wage statements in violation of Labor Code § 226. Based on the same alleged violations of Labor Code § 226, Plaintiff also seeks civil penalties under the California Labor Code Private Attorney Generals Act (“PAGA”) for the State of California and allegedly Aggrieved Employees.
- On [REDACTED], the Shasta County Superior Court granted preliminary approval of this class action settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Defendant vigorously denies the claims in the Lawsuit and contends that it fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment and give up your legal rights to pursue claims released by the Settlement of the Lawsuit.
OPT OUT OF THE CLASS SETTLEMENT	Exclude yourself from the class action portion of the Settlement, get no payment for settlement of the class claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the Settlement of the Lawsuit. If you worked in the PAGA Period as an hourly-paid non-exempt employee of FleetPride and were paid overtime and/or doubletime wages, then you will be deemed a “Aggrieved Employee” and you will still receive your share of the proceeds available from the settlement of the PAGA Released Claims, defined below, (your “Individual

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

	PAGA Payment”) even if you opt out of the class settlement.
OBJECT TO THE CLASS SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, [REDACTED], about why you object to the Settlement, and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval Hearing scheduled for [DATE AND TIME] in Department 3 of the Shasta County Superior Court located at 1500 Court Street, Redding, CA 96001.

The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at [REDACTED].m. on [REDACTED], in the Shasta County Superior Court located at 1500 Court Street, Redding, CA 96001, in Department 3. You are not required to attend the Hearing, but you are welcome to do so.

Why Am I Receiving This Notice?

FleetPride’s records show that you performed work for FleetPride in the State of California as a non-exempt, hourly-paid employee and were paid overtime and/or doubletime wages at some point during the Class Period and/or PAGA Period. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the Settlement. If the Court approves the Settlement and then any objections and appeals are resolved, a “Settlement Administrator” appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

What Is This Case About?

Plaintiff Ryan Middlebrooks was a non-exempt, hourly-paid employee of FleetPride. He is the “Plaintiff” in this case and is suing on behalf of himself and Class Members for Defendant’s alleged failure to issue complete and accurate wage statements. Based on the same alleged wage statement violations, Plaintiff also seeks to recover civil penalties under PAGA.

Defendant denies all of the allegations made by Plaintiff and denies that it violated any law. The Court has made no ruling on the merits of Plaintiff’s claims. The Court has only preliminarily approved this class action settlement. The Court will decide whether to give final approval to this settlement at the Final Approval Hearing.

Summary of the Settlement Terms

Plaintiff and Defendant have agreed to settle this case on behalf of themselves and Class Members and Aggrieved Employees for the Gross Settlement Amount of \$315,000.00. The Gross Settlement includes: (1) Administration Costs up to \$8,500.00 (2) up to 35% of the Gross Settlement Amount in attorneys’ fees, which amounts to \$110,250.00; (3) up to \$15,000.00 in litigation costs to Class Counsel, according to proof; (4) up to \$10,000.00 in a Service Award to the Class Representative; and (5) payment allocated to PAGA penalties in the amount of

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

\$30,000.00 of which 75% (or \$22,500.00) will be paid to the California Labor and Workforce Development Agency (“LWDA”), and twenty-five percent 25% (or \$7,500.00) will be distributed to Aggrieved Employees. After deducting these sums, a total of approximately not less than \$141,250.00 will be available for distribution to Class Members (“Net Settlement Amount”).

Distribution to Class Members

Class Members who do not opt out will receive a *pro rata* payment of the Net Settlement Amount based on the number of wage statements that reflect payment of overtime and/or doubletime wages issued to Class Members in non-exempt, hourly-paid positions for FleetPride in California during the Class Period (“Qualifying Wage Statements”). Specifically, Class Members’ payments will be calculated by dividing the number of Qualifying Wage Statements attributed to the Class Member by all Qualifying Wage Statements attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (Individual’s Qualifying Wage Statements ÷ total Settlement Class Qualifying Wage Statements) x Net Settlement Amount. In addition, Class Members who worked during the PAGA Period (*i.e.*, Aggrieved Employees) will receive a *pro rata* share of the \$7,500.00 allocated as PAGA penalties to Aggrieved Employees, whether or not they opt out of the class settlement, based on the number of Qualifying Wage Statements issued to each Aggrieved Employee during the PAGA Period.

FleetPride’s records indicate that you were issued [Qualifying Wage Statements] as a non-exempt, hourly-paid employee in California during the Class Period and [Qualifying Wage Statements] during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award] and your estimated payment as an Aggrieved Employee would be [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator and it must be postmarked no later than [RESPONSE DEADLINE]. Please include: (1) your name, address, telephone number, last four digits of your social security number and your signature; (2) a statement of your dispute and how many Qualifying Wage Statements you contend should be credited to you; and (3) any documentation you have that you contend supports your dispute.

Tax Reporting

100% of each Settlement Payment to Class Members who do not opt out will be allocated as civil or statutory penalties and interest, which will be reported on an IRS Form 1099. 100% of the payments for PAGA penalties to Aggrieved Employees will be allocated as penalties reported on an IRS Form 1099. This notice is not intended to provide legal or tax advice on your Settlement Share.

Your check will be valid for 180 days after issuance. After 180 days, uncashed checks shall be sent to the California State Controller’s Office Unclaimed Property Fund in the name of the individual, and such Class Members and/or Aggrieved Employees shall nevertheless be bound to the Settlement and the Final Approval Order.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your Individual Settlement Payment (*i.e.*, your share of the Net Settlement Amount) because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the Settlement, you will be bound by the entire release in the Settlement and receive your

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Individual Settlement Payment, as well as your Individual PAGA Payment if you are also an Aggrieved Employee. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment(s) set forth above.**

Class Members who do not submit a valid and timely opt out (pursuant to Option 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims he or she may have or had upon final approval of this Settlement and payment by Defendant to the Settlement Administrator.

Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount, Plaintiff and all Participating Class Members release the Released Parties of any and all claims that have been or could reasonably have been asserted based on the factual allegations in the Operative First Amended Complaint for alleged failure to furnish complete and accurate wage statements in violation of Labor Code § 226, and all other claims for relief, including damages, statutory and/or civil penalties, equitable and/or injunctive relief, attorneys' fees, interest, costs, and any other kind of relief whatsoever that could be sought based on the factual allegations and theories of liability asserted in the Operative First Amended Complaint (the "Class Released Claims").

For Plaintiff, the Aggrieved Employees, and, to the extent permitted by law, the State of California, the release includes, for the duration of the PAGA Period, all claims alleged in the PAGA Notice and the Operative First amended Complaint for PAGA civil penalties pursuant to Labor Code sections 226, 226.3 and 2698, et seq. in connection with alleged violations of Labor Code section 226 for alleged failure to furnish complete and accurate wage statements (the "PAGA Released Claims"). The Class Released Claims and PAGA Released Claims are collectively referred to herein as the "Released Claims."

"Released Parties" means Defendant and each of its past, present, and future respective subsidiaries, dba's, affiliates, parents, insurers and reinsurers, and company-sponsored employee benefit plans of any nature and their successors and predecessors in interest, including all of their officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, attorneys, administrators, fiduciaries, trustees, and agents.

Option 2 – Opt Out of the Settlement

If you do **not** wish to receive your Individual Settlement Payment or release the Class Released Claims, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, Social Security Number, and the following statement or any statement standing for the proposition that you seek to be excluded from the Settlement Class: "Please exclude me from the Settlement Class in the *Middlebrooks v. FleetPride, Inc., et al.* matter. I understand that by requesting exclusion, I will not participate in the class settlement and will not receive any money from the class settlement." or any statement of similar meaning standing for the proposition that you do not wish to participate in the Settlement. Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to the address below.

Settlement Administrators
[Add Mailing Address]

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Your written request for exclusion must be mailed to the Administrator and postmarked not later than [RESPONSE DEADLINE].

The proposed Settlement includes the settlement of the PAGA Released Claims. An employee may not request exclusion from the settlement of a PAGA claim. Thus, if the court approves the Settlement, then even if you request exclusion from the Class Settlement, if you are an Aggrieved Employee, you will still receive your Individual PAGA Payment and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right, if any, to individually pursue only the Class Released Claims.

Option 3 – *Submit an Objection to the Settlement*

If you wish to object to the Settlement, you may submit an objection in writing stating why you object to the Settlement. Your written objection must provide your name, address, the last four digits of your Social Security Number, signature, and a statement of the reason(s) why you believe that the Court should not approve the Settlement. Your written objection must be mailed the Administrator and postmarked no later than [RESPONSE DEADLINE]. Please note that you cannot both object to the Settlement and opt out of the Settlement. If you exclude yourself, then your objection will be overruled. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

Final Approval Hearing

You may, if you wish, also appear at the Final Approval Hearing set for [REDACTED] at [REDACTED] m. in the Shasta County Superior Court located at 1500 Court Street, Redding, CA 96001, in Department 3, and orally object to the Settlement, discuss your written objections with the Court and the Parties, or otherwise comment on the Settlement at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, or if you have questions, you may call the Settlement Administrator at [PHONE NUMBER]. The information for Class Counsel appears below. If you choose to participate in the Settlement, you will be represented by Class Counsel.

CLASS COUNSEL

DIVERSITY LAW GROUP, P.C.

Larry W. Lee, Esq.

lwlee@diversitylaw.com

Max W. Gavron, Esq.

mgavron@diversitylaw.com

Kwanpom “Mai” Tulyathan, Esq.

ktulyathan@diversitylaw.com

515 S. Figueroa Street, Suite 1250

Los Angeles, CA 90071

Telephone: (213) 488-6555 / Facsimile: (213) 488-6554

You may also visit the Settlement Administrator’s website at [WEBSITE] to gain access to key documents in this case, including the Settlement Agreement, the Order Granting Preliminary Approval of this Settlement, the Order Granting Final Approval of this Settlement, and the Final Judgment.

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Shasta County Superior Court located at 1500 Court Street, Redding, CA 96001, during regular business hours of each court day. You may also obtain these documents through the Court's website at <https://www.shasta.courts.ca.gov/Online-Services/Court-Case-Records.shtml>.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

Counsel for Defendant

In this case, Defendant is represented by the attorneys below. However, if you choose to participate in the Settlement, you should direct any questions regarding it to the Settlement Administrator and/or Class Counsel because Class Counsel will be your attorneys.

MCGUIRE WOODS LLP

Sabrina A. Beldner, Esq.

sbeldner@mcguirewoods.com

David Szwarczstejn, Esq.

dszwarczstejn@mcguirewoods.com

Natalie M. Lagunas, Esq.

nlagunas@mcguirewoods.com

1800 Century Park East, 8th Floor

Los Angeles, CA 90067

Tel: (310) 315-8200 / Fax: (310) 315-8210

PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH INQUIRIES.

191532840.1

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

EXHIBIT B