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Attorneys for Plaintiff JOSE ROBERTO COCA MOLINA individually and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

JOSE ROBERTO COCA MOLINA, individually and on behalf of all others similarly situated, Plaintiff, v. AMM MARKET, INC., dba MISSION RANCH MARKET, a California Corporation, Defendant.	Case No.: 30-2023-01337256-CU-OE-CXC Related to Case No.: 30-2023-01351378-CU-OE-CXC Judge: Hon. Randall J. Sherman Department: CX105 **DECLARATION OF JAMES HAWKIS IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES** Date: January 3, 2025 Time: 10:00 a.m. Reservation No. 74377022

DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff JOSE ROBERTO COCA MOLINA (hereinafter referred to as "Plaintiff" or "Class Representative"), who commenced this Class and PAGA action on behalf of the Class Members and Aggrieved Employees. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the executed Settlement Agreement which the Parties ask the Court to approve. Attached to the Settlement Agreement as **Exhibit A** is a true and correct copy of the Notice of Proposed Settlement of Class Action and Certification of Settlement Class along with the opt out form and objection form. ("Notice" or "Class Notice").

3. On July 20, 2023, Plaintiff submitted a letter to the California Labor Workforce Development Agency (the "LWDA") for civil penalties under the Private Attorney General Act of 2004 (the "PAGA").

4. On July 20, 2023, Named Plaintiff filed the Class Action against Defendant in a case entitled *Jose Roberto Coca Molina, et al. v. A MM Market, Inc dba Mission Ranch Market*, Orange County Superior Court Case No. 30-2023-01337256-CU-OE-CXC.

5. On September 27, 2023, Named Plaintiff filed the PAGA Action against Defendant in a case entitled *Jose Roberto Coca Molina, et al. v. AM M Markef1nc dba Mission Ranch Market*, Orange County Superior Court Case No. 30-2023-01351378-CU-OE-CXC.

6. The Class Action and PAGA Action allege that Defendant violated various wage and-hour laws, including: (1) failure to pay wages including overtime as required by Labor Code §§ 510 and 1194; (2) failure to provide meal periods as required by Labor Code§§ 226.7, 512 and IWC Wage Orders; (3) failure to provide rest periods as required by Labor Code§§ 226.7, 512; (4)

failure to pay timely wages required by Labor Code§ 203; (5) failure to timely pay wages during employment required by Labor Code§ 204; (6) failure to provide accurate wage statements required by Labor Code §§ 226, 226.3, 558.l; (7) failure to maintain accurate records relating to hours worked daily; (8) violation of Business & Professions Code § 17200, et seq.; and (9) penalties pursuant to the California Private Attorneys General Act.

7. In preparation for the mediation Defendant provided Class Counsel time and payroll records for all class members along with relevant policies for Class Members during the Class Period.

8. On January 19, 2024, the Parties participated in mediation with Lisa Klerman, Esq. (the "Mediator"), a respected mediator of complex wage-and-hour actions, and with the assistance of the Mediator's evaluations, the Parties reached settlement.

9. Defendant denies that Defendant engaged in any misconduct in connection with the wage-and-hour practices associated with the Class Members (inclusive of the Aggrieved Employees). Defendant further denies that Defendant has any liability of any kind associated with the claims alleged in the Actions. Defendant contends that Defendant has complied with both federal and state wage-and-hour laws, and all other laws regulating its relationship with the Class Members and the Aggrieved Employees, including the Named Plaintiff.

10. Class Counsel has investigated the facts relating to the Actions. Settlement discussions were conducted at arm's length during a full-day mediation with a neutral third-party mediator, and the Settlement is the result of an informed and detailed analysis of Defendant's potential liability and exposure in relation to the costs and risks associated with continued litigation. Based on the documents and data produced, as well as Class Counsel's own independent investigation and evaluation, Class Counsel believes that the Settlement documented by this Settlement Agreement is fair, reasonable, and adequate, and in the best interest of the Class in light of all known facts and circumstances, including the risk of significant delay and defenses asserted to the merits of the Actions. While Defendant specifically denies any liability in the Actions, Defendant has agreed to enter into this Settlement to avoid the costs associated with defending the Actions.

11. In summary, Plaintiff's Counsel performed a thorough investigation into the claims at issue, which included: (1) determining Plaintiff's suitability as private attorneys general and class representative through interviews, background investigations, and analyses of employment files and related records; (2) evaluating all of Plaintiff's potential representative claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing employees' time and wage records and driver manifest; (5) reviewing Defendant's employment policies and practices; (6) researching settlements in similar cases and the prior settlement in this case; (7) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the mediation.

12. By engaging in such a thorough investigation and evaluation of Plaintiff's claims, Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, and various defenses asserted by Defendant.

13. As a result of the mediation, the Parties agreed to settle this matter for a Gross Settlement Amount ("GSA") of $800,000.00. Plaintiff's counsel balanced the terms of the proposed Settlement against the risk of litigation and probable outcome at the class certification stage, and if any Class were certified, at trial. Based on their own respective independent investigations and evaluations, and after taking into account the sharply disputed factual and legal issues involved in this matter, the risks attending further prosecution of the case, and the monetary benefits received under the Settlement despite the questionable nature of the claims, Plaintiff's counsel is of the opinion that Settlement for the consideration and on the terms set forth in the Settlement Agreement is fair, reasonable and adequate and is in the best interests of Plaintiff and the Class. Counsel for the Parties investigated the applicable law as applied to the facts discovered regarding the claims of Plaintiff, Defendant's defenses thereto and the damages claimed by Plaintiffs on behalf of the Settlement Class.

14. The GSA includes, without limitation, (1) attorneys' fees in the amount of $266,666.66 and reimbursement of reasonable litigation costs and expenses in the amount of up to $20,000.00 to Class Counsel ("Attorneys' Fees and Costs"); (2) Named Plaintiff Class Representative Service Award in the amount of $10,000.00 ("Enhancement Award for Named Plaintiff"); (3) fees and expenses of administration of the Settlement to the Settlement Administrator in an amount of $8,500.00 ("Settlement Administration Costs"); (4) $40,000.00 to PAGA with twenty-five percent (25%) share of the PAGA Penalties to be a part of the Net Settlement Amount that will be distributed to Class Members in the PAGA Group in the amount of $10,000.00; and (5) the seventy-five percent (75%) share of PAGA Penalties ("LWDA Payment") in the amount of $30,000.00 to the California Labor and Workforce Development Agency ("LWDA"). **The Entire Net Settlement Amount will be paid to all Class Members who do not opt out of the Settlement Class, and without the need to submit claims for payment.** After deductions, the Net Settlement Amount ("NSA") is estimated to be approximately **$454,833.34**. The Class Members are to be paid based from the NSA on a pro rata basis based upon the weeks each class member worked in comparison to the total work weeks worked by all Class Members.

15. The Settlement is based on the representation that there were no more than 21,622 non-exempt workweeks worked by the Class Members during the period of July 20, 2019, through the date of the mediation (January 19, 2024). If that number is incorrect by more than 10% (i.e., by more than 2,162 workweeks), Defendant shall increase the Gross Settlement Amount proportionally. For example, if the number is 12% higher, the Gross Settlement Amount will be increased by 2%. At the time of the parties' settlement, it was estimated the workweek count would be approximately 25,230 through the Class Period.

16. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiff involved both in not prevailing on one or more of the causes of action or theories alleged in the operative Complaints and in non-certification, and if successful, Defendant disputes the ability of Plaintiff to certify a class in this case. Defendant also argued it maintained lawful written policies that were provided to the class members and enforced those policies. Yet, despite the defenses

proffered by Defendant, the proposed Settlement commits Defendant to pay each Class Member a portion of the NSA. The amount to be paid to the Classes is fair, adequate and reasonable given the significant risk to Plaintiff and the Class in continuing with the litigation and not prevailing on their claims at class certification or at trial or not being paid anything even if trial was successful.

17. A hundred percent of Class Member's time keeping records and payroll records were produced and analyzed along with other relevant data points, to come up with a damage model to determine Defendant's exposure for the classes.

18. Although Plaintiff's Counsel believes the class claims are strong, Plaintiff's Counsel also recognize that if the litigation had continued, they may well have encountered significant legal and factual hurdles that could have prevented the Class from obtaining any recovery.

19. To be sure, a number of cases have found wage and hours actions to be especially amenable to class resolution. However, some courts have gone the other way, finding that some of the very claims at issue here-especially meal period and rest period violations-were not suitable for class adjudication because they raised too many individualized issues. *See Duran v. US. Bank National Association*, 59 Cal. 4th 1 , 31 (2014) (reversing a verdict from a class trial); *Ali v. US.A. Cab Ltd.*, 1 76 Cal. App. 4th 1333, 1341 (2009) (affirming denial of certification because employees' declarations attesting to having taken meal and rest periods demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores, L.P.* , 2013 U.S. Dist. LEXIS 137792, at *30- 41 (C.D. Cal. Sept. 20, 2013) (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *.Jimenez v. Allstate Ins. Co.*, 2012 U.S. Dist. LEXIS 65328 (C.D. Cal. Apr. 18, 2012) (denying motion to certify meal and rest period classes based on employer's practice of understaffing and overworking employees); *Gonzalez v. Officemax NA.*, 2012 U.S. Dist. LEXIS 163853 (C.D. Cal. Nov. 5, 2012) (same); *Brown v. Fed. Express Corp.*, 249 F.R.D.580, 587-88 (C.D. Cal. 2008) (denying certification of driver meal and rest period claims based on the predominance of individual issues); *Kenny v. Supercuts, Inc.*, 252 F.R.D. 64 I, 645 (N.D. Cal. 2008) (denying certification on meal periods claim); *Blackwell v. Skywest Airlines, Inc.* , 245

F.R.D. 453, 467- 68 (S.D. Cal. 2007) (declining to certify class action because individual issues predominated when different employee stations provided different practices with respect to meal periods).

20. Some courts have denied certification even when an employer's policies are unlawful on their face. For instance, in *Ordonez v. Radio Shack, Inc.*, 20 1 3 U.S. Dist. LEXIS 7868, *35-4 1 (C.D. Cal. Jan. 17, 201 3), the court denied certification even though the plaintiff submitted evidence of a facially unlawful policy regarding rest breaks. The *Ordonez* court concluded that the predominance and superiority elements were not met based on the employer's presentation of anecdotal evidence of lawful compliance notwithstanding the unlawful policy. Id. at *38-40. And it should be underscored that that claims which are amendable to certification can be disposed of by motion for summary judgment. *See Loudv. Eden Med. Ctr*., 2013 U.S. Dist. LEXIS 122873, **36-53 (N.D. Cal. Aug. 28, 2013) (granting summary judgment on wage statement claim because plaintiff could not show injury due to defects and that incorrect wage information is not willful).

21. As the above examples illustrate, the prospect of certifying a wage and hour action is always uncertain, and the risk of being denied class certification militates in favor of settlement. A denial of class certification effectively forecloses continued litigation, as neither the individual nor his or her attorney will have any incentive to proceed with an individual case when such small claims are at stake. *See In re Baycol Cases I & II*, 5 1 Cal. 4th 75 1 , 758 (2011) (explaining that a dismissal of class claims is effectively the "death knell" of the case, despite survival of individual claims). In other words, for cases where individual damages are relatively small, denial of class certification results in a near-complete loss for Plaintiffs as well as no recovery for the employees, who are shut out of the action. Thus, if the putative Class had not been certified, the value of Plaintiffs' case would have been reduced to a fraction of the value of this Settlement; indeed, Defendant would likely have offered no money to settle the class-wide claims if certification had been denied.

22. Finally, early resolutions save time and money that would otherwise go to litigation. Parties' resources, as well as the Court's, will be further taxed by continued litigation.

And if this action had settled following additional litigation, the settlement amount would likely have taken into account the additional costs incurred, and there may have been less available for Class Members. Cost savings is one reason why California policy strongly favors early settlement. *See Nemy v. Regents of University of California*, 3 Cal. 4th 273, 277 (1992) (explaining the high value placed on settlements and observing that "[s]ettlement is perhaps most efficient the earlier the settlement comes in the litigation continuum."). This concern also supports settlement.

23. Further, beyond the risk of an adverse ruling on the merits or certification, Class Counsel considered the fact that continued litigation would likely take years and would be extremely expensive given the breadth and complexity of the claims. In this case, post-trial and appellate proceedings are likely to occur, which will surely drag the case far into the future even with a positive trial result. When facing a distant and unsure resolution of the allegations in this action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such costly litigation in favor of more immediate benefits to the Class was a consideration favoring settlement. Given these realities, it is highly likely that the future expense of this litigation, and its likely duration if the settlement is not approved, would be significant and weigh heavily in favor of approval of this settlement.

24. The GSA is well within the acceptable range of reasonableness for the claims of the Settlement Class Members. Based upon detailed data obtained through informal discovery and information exchanges, there are through the date of mediation approximately: (1) 327 class members who worked approximately 21,622 workweeks though mediation. Based on representation by Defendant’s counsel, there are an estimated 357 class members who worked approximately 25,951 workweeks through the end of the Class Period.

25. Plaintiff contends that his strongest claim are for late meal period violations and off the clock work due to working before the work shifts and interrupted during meal periods. There was an approximate 60.9% violation rate for late meals resulting in a meal period violation valuation of approximately $1,078,721 = (64,866 shifts X $16.63 average hourly rate). The rest break claim provide little to no value. The off the clock claim was valued at $224,643 (108,110 shifts X $2.077 (5 overtime minutes per shift). The resultant maximum potential damages under §

226(e) for these violations was approximately $377,500 for approximately 4,284 pay periods in the wage statement period.

26. These unpaid wage claims then gave rise to Plaintiff's claim for waiting time penalties, which had a maximum value of $626,618 based on 157 *former* Class Members. However, Defendant argued that it would defeat Plaintiff's unpaid wage claims and, because the waiting time penalty claims were derivative of the unpaid wages and meal period claims, Plaintiff's Labor Code § 203 would fail. Additionally, Defendant argued that even if the Court determined that some or all unpaid wage claims had merit, waiting time penalties would be inappropriate because any violations were not "willful", and Defendant had a "good faith" belief in the legality of its practices.

27. The PAGA penalties were valued at approximately $428,400 (4,284 pay periods X $100 per Pay Period). The $100 per pay period value is reasonable given it is half the potential value for PAGA penalties.

28. However, Defendant raised a host of strong defenses both as to class certification and on the merits. For instance, Defendant argued that it maintained a policy which required the Class Members to keep accurate records for the beginning and end of the workday, and that any "off-the-clock" claims would require exactly the type of individualized assessments that preclude class certification. As to the wage claim, Defendant claimed that Plaintiff and the Class would be unable to show the requisite "injury" to impose liability, and the wilfulness prong for any penalties under 203 or ill will or bad faith under PAGA such that substantial penalties would not be awarded.

29. In sum, when factoring in the defenses and risks of ongoing litigation, Plaintiff estimates the risk-adjusted class recovery as follows:

• Unpaid Wage Claims	$	224,643
• Waiting Time Penalty Claims	$	626,618
• Meal and Rest Break Claims	$	1,078,721
• Wage Statement Claims	$	377,500
• PAGA	$	428,400

- **Total Risk Adjusted Penalties and Damages $ 2,735,882**

30. As a result, the GSA of $800,000.00 represents a reasonable recovery and accounts for approximately 30% of the overall potential value. This recovery could easily be much lower if at trial PAGA penalties were reduced or damages for certain pay periods or workweeks could not be proven for certain individuals. The proposed GSA is within the "ballpark of reasonableness" and should be approved. Counsel for Plaintiffs believe that this is a fair and reasonable Settlement in light of the complexities of the case, the state of the law and uncertainties of class certification and litigation, the policies and practices Defendant has had in place or implemented during the purported liability period, and the benefit to be recovered for the Class. Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable and is in the best interests of the Settlement Class, and should be preliminarily approved.

31. Based on the estimated Net Settlement Amount of $454,833.34, on average each Settlement Class Member with approximately **$1,274.04** per Class Member. The highest amount a Settlement Class Member will receive is approximately **$4,695** based upon $17.52 per workweek multiplied by approximately 268 maximum workweeks during the Class Period. The lowest payment is estimated to be approximately **$17.52** for someone who worked only one workweek. To the extent any amount for Attorneys' Fees, Costs, Claims Administration Costs or Incentives are not awarded, the difference in those amounts will be added to the NSA. This is a guaranteed amount of money paid to Settlement Class Members now, rather than the continued risk of further litigation and receiving no money sometime in the far future and after trial and appeals.

32. The PAGA members who worked during the PAGA period will be paid a PAGA Payment based upon a pro rata share of the number of pay periods each PAGA member worked compared to the total pay periods worked by all PAGA group members during the PAGA period of approximately 6,465 pay periods. As a result, there are approximately 218 PAGA members who will each receive on average approximately $45.87 per PAGA member. The lowest value is approximately $1.55 for one pay period worked.

33. The Class Representative has provided extensive supporting documents and

assisted Class Counsel in developing information necessary to litigate and settle this case. Plaintiff also conducted record review and consultation with counsel in preparation for mediation, and to assist in evaluating and proving the claims. The settlement provides for a Payment to be paid to the Class Representative in the amount of $10,000.00 subject to Court approval. The purpose is to compensate the Class Representatives an additional incentive payment, taking into consideration the risks, time, effort and expenses incurred in coming forward to provide invaluable information and negotiate and litigate this matter on behalf of all Settlement Class Members who otherwise, would probably not file their own individual claims to recover what may be relatively low damages. Further, the Payment of $10,000.00 as an Enhancement Award to the Class Representative is a very fair and justified as part of the Settlement based on the risks Plaintiff has taken and benefits conferred upon the Settlement Class.

34. Class certification, as requested by the Parties for the purposes of the settlement only, should be granted because Plaintiff allege that the proposed Settlement Class Members' claims all stem from the same alleged conduct, i.e., that Defendant violated California law because they: (1) failure to pay overtime wages, (2) failure to provide meal periods, (3) failure to provide rest breaks, (4) failure to pay final wages, (5) failure to pay timely wages, (6) failure to provide accurate wage statements, (7) failure to maintain accurate records relating to hours worked daily, and (8) unfair and unlawful competition pursuant to Business and Professions Code §17200 et seq. In addition to compensatory damages, Plaintiff and the Settlement Class seek attorneys' fees, costs, and interest. Under these specific circumstances, the commonality requirement for class certification is satisfied. The typicality requirement for certification is also met as it is alleged that the Class Representatives and the proposed Settlement Class were subjected to similar violations based upon similar conduct, policies and practices of the Defendant regardless of their duties.

35. The adequacy requirement for certification is also met. The Class Representative and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class. The Class Representative will receive a reasonable award for the time and effort spent assisting Class counsel with factual issues surrounding the case. Other than this specific payment to the Class

Representative, all of the Settlement Class Members will receive a proportionate share of the NSA, as detailed above provided they do not exclude themselves. Further, all PAGA Members during the PAGA Period will receive their pro rata share of PAGA Penalties. As a result, there is no conflict of interest between the Class Representative and the Settlement Class Members. Further, the NSA will be fairly distributed among Participating Class Members, and no "settlement allocation" questions will be raised.

36. Common questions of law and fact predominate over individual questions and class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the proposed Settlement Classes in this case are sufficiently cohesive, since all Settlement Class Members share a common nucleus of facts and potential legal remedies, and since all of the Settlement Class Members and the Class Representative seek compensation for unpaid wages and other civil and statutory penalties from Defendant for the allegations described in the Complaints. Common questions about compensation or lack thereof for work performed by Settlement Class Members and the Settlement Class Members' potential legal remedies are identical. The alternative method of resolution is individual claims for relatively small amounts of damages, but individual cases would be uneconomical for potential plaintiffs because the cost of litigation dwarfs potential recovery. Therefore, a class action is the preferred method of resolution.

37. The class notice plan here calls for the Settlement APEX Class Action Settlement Administrators ("APEX") to mail a Notice of Class Action settlement to all known and reasonably ascertainable Settlement Class Members based on Defendant's records. Further, the Settlement Administrator will conduct a skip-trace and use all reasonable efforts to locate Settlement Class Members and will re-mail all returned envelopes with forwarding addresses. The notice is consistent with the class certification notices approved by numerous state and federal courts, and is the best notice practicable under circumstances of this case. The proposed Settlement Class Members are ascertainable because all of the Settlement Class Members have worked for Defendant during the Class Periods and can be identified through Defendant's records.

38. APEX is experienced in administering class action settlements and has provided a flat-fee proposal to administer this settlement for $8,500.00.

39. The Notice also fulfills the neutrality requirement. It summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner, and is accurate, objective, and understandable to Settlement Class Members, as is required under prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of liability by Defendant and recognizes the Court has not ruled on the merits. It also states the final settlement approval decision has yet to be made. The Notice also clearly instructs the Settlement Class Members on how to object or exclude themselves from the Settlement. Therefore, Settlement Class Members will have the option to participate or exclude themselves simply by mailing a request to exclude themselves. The Settlement Class consists of non-exempt employees who speak English. Thus, the Notice of Class Action is drafted in a manner that is likely to be readily understood by the Settlement Class. Accordingly, the Notice complies with the standards of fairness, completeness and neutrality required of a Notice of Class Action Settlement. The Notice therefore is neutral, objective and understandable.

40. I have a great deal of experience in wage and hour class action litigation. I have obtained certification of several classes, I have been approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others. Although not an all inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this action:

a. *Aguilar v. 7-Eleven, Inc*., et. al., Orange County Superior Court- Case No.: 30-2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium wages for meal period and rest periods and resultant penalties. Class Notice pending.

b. *Carey, et. al. v. Arthur J. Gallagher*, et. al., USDC, SOUTHERN DISTRICT- Case No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-classification of insurance claims adjusters employed by Gallagher Bassett, a third party administrator (TPA) in the State of California. Certification granted. Plaintiffs' counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

c. *Dao v. 3M Company*, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-

04554. Wage and Hour Class Action case seeking past wages for "off the clock", overtime and meal and rest break violations for production workers in the State of California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs' counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

e. *Morgan v. Aramark Campus*, LLC, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

f. *West v Iron Mountain Information Management, Inc, et. al*.; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiffs' counsel, lead trial counsel and class counsel.

g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Acosta v. Fleetwood Travel Trailers of California, Inc*., et al., Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully distributed.

j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

k. *Martinez v. Securitas Security Services USA*, et al., Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by defendant in the State of California. Plaintiffs' counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc*. et al., Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for housekeepers employed by defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

m. *Ruiz, et al. v. Unisourse Worldwide, Inc., et al*., USDC, CENTRAL DISTRICT, Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest period violations for non-exempt employees employed by defendant in the state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has petitioned the Court for Lead Counsel.

n. *Herrador v. Culligan International Company, et al*., USDC, CENTRAL DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for field and branch employees of defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled and awaiting Final Approval.

o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No. 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

p. *Denton v. BLB Enterprises, Inc., et al*., Orange County Superior Court, Case No. 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. *Rios v. Sandberg Furniture Manufacturing Co*., Inc, et al., Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. *McMurray v. Dave and Busters, Inc*., et al., Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by defendant in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant, DBA Carl's Jrs. in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. Burns v. Gymboree Operations, Inc., et al., San Francisco Superior Court, Case No.

CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. *Willems v. Diedrich Coffee, Inc.,* et al., Orange County Superior Court, Case No. 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

v. *Davila, et al. v. Beckman Coulter, Inc*., et al., Orange County Superior Court, Case No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production workers employed by defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Cased settled; final approval granted; no objections and funds fully distributed.

w. *Perez v. Naked Juice Company of Glendora, Inc*., Los Angeles Superior Court, Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for production employees employed by defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

41. Here, the Parties' agreement to pay Class Counsel Fees of 1/3 (33.33333%) of the GSA is reasonable. My firm and I have been the only counsel to represent Plaintiff and the Settlement Class in this matter, and we have borne the entire risk and cost of this litigation on a pure contingency fee basis. The legal issues raised drew significantly upon my experience and the extensive review and analysis of documents and information by me and others at my firm and our co counsel. In a complex action such as this, the proposed attorneys' fees are, at the very least, on the low side of the market rate for contingency fees.

42. At this juncture, with the addition of more hours due to the administration of the the Settlement by Class Counsel, administration of the Settlement, and preparation for final

approval, counsel for plaintiff will provide a detailed analysis of its time in advance of the final approval hearing. Plaintiff's counsel will file a motion for attorneys' fees and costs to be heard concurrently with the motion for final approval in accordance with the terms of the settlement agreement.

43. Despite the complexity of the case, Class Counsel has, through the investment of substantial effort and the resources of my law firm been able to secure an outstanding settlement on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual obstacles in demonstrating that class certification was appropriate. Plaintiff would also have been required to establish a significant amount of witness testimony, pattern and practice evidence, statistical evidence, sampling evidence, expert testimony, and other evidence in order to present their case both at the class certification stage and trial. Defendant vigorously contested liability, the amount of claimed damages, and the propriety of class certification, and would have continued to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and adequate and in the best interests of the Settlement Class. The fairness and adequacy of the Settlement is confirmed by all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, the various defenses asserted by Defendant, and numerous potential appellate issues.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 5, 2024 at Irvine, California.

James R. Hawkins

Exhibit 1

JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
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Attorneys for Plaintiff, the Putative Class,
the State of California, and Aggrieved Employees

(Additional Counsel on Next Page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

JOSE ROBERTO COCA MOLINA, individually and on behalf of all others similarly situated, Plaintiff, vs. AMM MARKET, INC. dba MISSION RANCH MARKET, a California Corporation, Defendants.	Case No. 30-2023-01337256-CU-OE-CXC Related with Case No. 30-2023-01351378-CU-OE-CXC ASSIGNED FOR ALL PURPOSES TO: HON. RANDALL J. SHERMAN, DEPT. CX105 **SETTLEMENT AGREEMENT AND STIPULATION TO RESOLVE CLASS ACTION AND PAGA CLAIMS**
AND RELATED ACTION.	

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Attorneys for Defendant
A M M MARKET, INC. dba MISSION RANCH MARKET

This Settlement Agreement and Stipulation To Resolve Class Action and PAGA Claims (the "**Settlement Agreement**," "**Agreement**," or "**Settlement**") is entered into to resolve the following actions: (1) *Jose Roberto Coca Molina, et al. v. A M M Market, Inc. dba Mission Ranch Market, et al.*, Orange County Superior Court Case No. 30-2023-01337256-CU-OE-CXC (the "Class Action"); and (2) *Jose Roberto Coca Molina, et al. v. A M M Market, Inc. dba Mission Ranch Market, et al.*, Orange County Superior Court Case No. 30-2023-01351378-CU-OE-CXC (the "PAGA Action") (collectively, the "Actions"). This agreement is entered into between Plaintiff Jose Roberto Coca Molina ("Plaintiff") and Defendant A M M Market, Inc. dba Mission Ranch Market ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties").

<u>DEFINITIONS</u>

1. <u>Actions</u>. "**Actions**" mean the Class Action and the PAGA Action.

2. <u>Aggrieved Employees</u>. "**Aggrieved Employees**" means all individuals who are or previously were employed by Defendant as non-exempt California employees during the PAGA Period. Defendant represents that it estimates there will be approximately 187 Aggrieved Employees during the PAGA Period who worked approximately 6,156 Pay Periods during the PAGA Period.

3. <u>Agreement or Settlement or Settlement Agreement</u>. "**Agreement**" or "**Settlement**" or "**Settlement Agreement**" means this Settlement Agreement and Stipulation To Resolve Class Action and PAGA Claims, entered into by the Parties to resolve the Actions.

4. <u>Attorneys' Fees and Costs</u>. "**Attorneys' Fees and Costs**" means the amount authorized by the Court for: (i) an award of attorneys' fees to Class Counsel for litigation and resolution of the matter, in the amount that does not exceed 33 1/3% percent of the Gross Settlement Amount; and (ii) reimbursement of actual costs incurred by Class Counsel in connection with the Actions, in an amount to not to exceed $266,666.66.

5. <u>Class Counsel</u>. "**Class Counsel**" means James R. Hawkins, Gregory Mauro, Michael Calvo, Lauren Falk, and Ava-Issary of JAMES HAWKINS APLC.

6. <u>Class or Class Members</u>. "**Class**" or "**Class Members**" means all persons who have been employed by Defendant as Non-Exempt Employees or equivalent positions however titled in

the state of California during the Class Period. Defendant represents there are approximately 327 Class Members who worked during the Class Period through approximately March 1, 2024. Defendant also represents that it estimates there will be approximately 25, 230 workweeks during the Class Period.

7. Class Notice. "**Class Notice**" means the Notice of Class Action Settlement, attached as **Exhibit A** to this Agreement, or a substantially similar notice approved by the Court.

8. Class Period. "**Class Period**" means the period from July 20, 2019, through the date of 120 days after full execution of this settlement agreement.

9. Court. "**Court**" means the Orange County Superior Court, where the Actions are currently pending.

10. Defendant. "**Defendant**" means A M M Market, Inc. dba Mission Ranch Market.

11. Effective Date. The "**Effective Date**" of this Agreement will be the later of (i) the 61st day after service of notice of entry of the Final Order and Final Judgment, if no appeal, review, or writ has been filed; or (ii) if an appeal, review, or writ is sought from the Final Order or Final Judgment, the day after the Final Order and Final Judgment are affirmed or the appeal, review, or writ is dismissed or denied, and the Final Order and Final Judgment are no longer subject to further judicial review. The Effective Date is conditioned upon the Court's having entered a Final Order and Judgment as set forth in this Agreement.

12. Employer's Taxes. "**Employer's Taxes**" means Defendant's share of the payroll taxes associated with the wage portion of the Individual Settlement Payments, which Defendant will pay separately from the Gross Settlement Amount.

13. Enhancement Award. "**Enhancement Award**" means the amount the Court authorizes to be paid to Named Plaintiff in addition to his Individual Settlement Payment, in recognition of his effort and work in prosecution of the Actions, up to $10,000.00.

14. Final Hearing Date. "**Final Hearing Date**" means the date set by the Court for the hearing on final approval of the Settlement.

15. Final Order and Judgment. "**Final Order and Judgment**" means the proposed order granting final approval of the Settlement and the separate proposed judgment, which Plaintiff will

submit to the Court with the motion for final approval of the Settlement.

16. General Release Named Plaintiff Only. "**General Release**" means the general release of all claims as set forth in Paragraph 48.

17. Gross Settlement Amount. "**Gross Settlement Amount**" means the total settlement payment Defendant has agreed to make under this Agreement. The Gross Settlement Amount is $800,000.00.

18. Individual PAGA Payment. "**Individual PAGA Payment**" means a payment to an Aggrieved Employee of the employee's share of the PAGA Payment as set forth in this Agreement.

19. Individual Settlement Payment. "**Individual Settlement Payment**" means the individual settlement payment allocated to each Participating Class Member and/or Aggrieved Employee as set forth in this Agreement, and consists of the Participating Class Member Payment and the Individual PAGA Payment to the extent an employee is eligible.

20. Named Plaintiff. "**Named Plaintiff**" means Jose Roberto Coca Molina.

21. Notice Period. "**Notice Period**" means the time period commencing on the date the Class Notice is mailed to Class Members and ending 60 days thereafter unless a notice is remailed to a Class Member, in which case, the Notice Period shall end either 60 days after mailing or 45 days after remailing, whichever is later.

22. Net Class Settlement Amount. "**Net Class Settlement Amount**" means the settlement amount to be distributed to Participating Class Members, which is the Gross Settlement Amount less Attorneys' Fees and Costs, the Enhancement Award, the PAGA Amount, and Settlement Administration Costs.

23. PAGA Claims. "**PAGA Claims**" means, for the PAGA Period, claims for penalties under the California Private Attorneys' General Act (California Labor Code § 2698, *et seq*.) that (a) arise from the facts, matters, transactions or occurrences alleged in the Actions or that could have been alleged in the Actions based on such facts; and/or (b) arise from the facts, matters, transactions or occurrences alleged, or that could have been alleged, in the PAGA Notice Letters sent by the Named Plaintiff to the Labor and Workforce Development Agency ("**LWDA**") pursuant to Labor Code section 2699.3 on or about July 20, 2023 asserting that Defendant violated various provisions

of the Labor Code. Without limiting the foregoing, and in addition to the foregoing, the PAGA Claims include claims premised on the failure to pay all minimum wages and overtime compensation including, but not limited to, time spent working off-the-clock; failure to provide meal periods and rest breaks or premium payments; failure to provide and maintain complete and accurate itemized wage statements; failure to keep complete and accurate payroll records; untimely payment of wages during employment and at the time of termination; violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198; in connection with the allegations in the LWDA Notices and Operative Complaint; and related violations of the applicable California Wage Orders and California Code of Regulations, Title 8, section 11000 *et seq.* The PAGA Claims excludes claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation claims, FEHA-related claims for retaliation, discrimination or harassment, and any claims outside of the PAGA Period.

24. PAGA Amount. "**PAGA Amount**" means the amount of $40,000.00, which represents the portion of the Gross Settlement Amount allocated to the settlement of the PAGA Claims. The PAGA Amount is paid from the Gross Settlement Amount, and will be allocated as set forth in this Agreement. The Parties agree that 75% of the PAGA Amount ($30,0000.00) will be paid to the LWDA as the "**LWDA Payment**," and the remaining 25% ($10,000.00) will be allocated to the Aggrieved Employees as the "PAGA Payment."

25. PAGA Period. "**PAGA Period**" means the period from July 24, 2022, through the date of 120 days after full execution of this settlement agreement.

26. Parties. "**Parties**" means the Defendant and the Named Plaintiff, individually and on behalf of all Class Members and Aggrieved Employees. Each of the Parties may be referred to in the singular as a "**Party**."

27. Participating Class Member. "**Participating Class Member**" means each Class Member who has not timely opted out of the Settlement pursuant to this Agreement; "**Settlement Class**" means a class of all Participating Class Members.

28. Participating Class Member Payment. "**Participating Class Member Payment**"

means the *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under the Class Settlement, to be calculated in accordance with Paragraph 52.f., which is inclusive of the employee's share of taxes and withholdings with respect to the wages portion of the Participating Class Member Payment.

29. Preliminary Approval Order. "**Preliminary Approval Order**" means an order from the Court preliminarily approving this Settlement.

30. Released Parties. "**Released Parties**" means and includes A M M Market, Inc. dba Mission Ranch Market and its respective current and former parents, predecessors or successors, holding companies, owners, subsidiaries, divisions, and affiliated or related persons or entities, and each of their respective officers, directors, managers, employees, insurers, partners, shareholders, members, attorneys, agents, executors, and assigns.

31. Released Claims. "**Released Claims**" means, for the duration of the Class Period, any and all claims, actions, or causes of action against Defendant and the other Released Parties (a) that are alleged in the operative complaint; and/or (b) that could have been alleged in the operative complaint based upon or arising out of the facts alleged therein, except those arising under PAGA. Without limiting the foregoing, and in addition to the foregoing, the Released Claims include claims premised on the failure to pay all minimum wages and overtime compensation including, but not limited to, time spent working off-the-clock; failure to provide meal periods and rest breaks or premium payments; failure to provide and maintain complete and accurate itemized wage statements; failure to keep complete and accurate payroll records; untimely payment of wages during employment and at the time of termination; unfair business practices; violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1194, 1194.2, 1197, 1197.1, 1198; related violations of the applicable California Wage Orders; violations of all related or corresponding federal laws; and violations of California Business and Professions Code section 17200, *et seq* in connection with the alleged Labor Code violations alleged (or that could be alleged based on the facts pled) in the Actions. The Released Claims excludes claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation claims, FEHA-related claims for retaliation, discrimination or harassment, and any

claims outside of the Class Period.

32. Settlement Administration Costs. "**Settlement Administration Costs**" means the costs of settlement administration, including costs of notice to Class Members, distributing settlement payments, and any other fees and costs incurred or charged by the Settlement Administrator in connection with the execution of its duties under this Settlement.

33. Settlement Administrator. "**Settlement Administrator**" means Apex Class Action, LLC, or such other third-party administrator chosen by the Parties and approved by the Court.

34. Settlement Hearing. "**Settlement Hearing**" means the hearing on the Final Hearing Date at which the Court will determine whether to fully and finally approve the fairness and reasonableness of this Agreement.

RECITALS

35. On July 20, 2023, Named Plaintiff submitted a PAGA Notice to the LWDA.

36. On July 20, 2023, Named Plaintiff filed the Class Action against Defendant in a case entitled *Jose Roberto Coca Molina, et al. v. A M M Market, Inc dba Mission Ranch Market*, Orange County Superior Court Case No. 30-2023-01337256-CU-OE-CXC.

37. On September 27, 2023, Named Plaintiff filed the PAGA Action against Defendant in a case entitled *Jose Roberto Coca Molina, et al. v. A M M Market, Inc dba Mission Ranch Market*, Orange County Superior Court Case No. 30-2023-01351378-CU-OE-CXC.

38. The Class Action and PAGA Action allege that Defendant violated various wage-and-hour laws, including: (1) failure to pay wages including overtime as required by Labor Code §§ 510 and 1194; (2) failure to provide meal periods as required by Labor Code §§ 226.7, 512 and IWC Wage Orders; (3) failure to provide rest periods as required by Labor Code §§ 226.7, 512; (4) failure to pay timely wages required by Labor Code § 203; (5) failure to timely pay wages during employment required by Labor Code § 204; (6) failure to provide accurate wage statements required by Labor Code §§ 226, 226.3, 558.1; (7) failure to maintain accurate records relating to hours worked daily; (8) violation of Business & Professions Code § 17200, et seq.; and (9) penalties pursuant to the California Private Attorneys General Act.

39. In preparation for the mediation Defendant provided Class Counsel with first and last

time punch dates for all employees, time and payroll records and relevant policies for Class Members during the Class Period.

40. On January 19, 2024, the Parties participated in mediation with Lisa Klerman, Esq. (the "**Mediator**"), a respected mediator of complex wage-and-hour actions, and with the assistance of the Mediator's evaluations, the Parties reached the settlement that is memorialized in this Agreement.

41. Defendant denies that Defendant engaged in any misconduct in connection with the wage-and-hour practices associated with the Class Members (inclusive of the Aggrieved Employees). Defendant further denies that Defendant has any liability of any kind associated with the claims alleged in the Actions. Defendant contends that Defendant has complied with both federal and state wage-and-hour laws, and all other laws regulating its relationship with the Class Members and the Aggrieved Employees, including the Named Plaintiff.

42. Class Counsel has investigated the facts relating to the Actions. Settlement discussions were conducted at arm's length during a full-day mediation with a neutral third-party mediator, and the Settlement is the result of an informed and detailed analysis of Defendant's potential liability and exposure in relation to the costs and risks associated with continued litigation. Based on the documents and data produced, as well as Class Counsel's own independent investigation and evaluation, Class Counsel believes that the Settlement documented by this Settlement Agreement is fair, reasonable, and adequate, and in the best interest of the Class in light of all known facts and circumstances, including the risk of significant delay and defenses asserted to the merits of the Actions. While Defendant specifically denies any liability in the Actions, Defendant has agreed to enter into this Settlement to avoid the costs associated with defending the Actions.

43. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement Agreement.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the recitals listed above and the promises and warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings set forth below, Named Plaintiff, individually and on behalf of the Class Members, Aggrieved Employees, and, to the extent permitted by law, the **S**tate of California, and Defendant agrees that the Actions shall be and are finally and fully compromised and settled on the following terms and conditions:

44. Non-Admission Of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Agreement, Defendant and the other Released Parties do not admit, and specifically deny, that they have violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to the Class or the Aggrieved Employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant or any of the other Released Parties of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

45. Conditional Nature Of Settlement. For settlement purposes *only*, the Parties agree that (a) a class may be certified in the Actions pursuant to California Code of Civil Procedure Section 382, and (b) the Actions may proceed as a PAGA representative action.

a. The Parties intend their settlement to be contingent upon the preliminary and final approval of each and every term of this Agreement, without material modification. The Parties and their respective counsel shall use their respective best efforts to obtain Court approval and implement this Agreement in accordance with its terms. If the Court does not approve this Agreement, the Parties agree to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a resolution, the Parties agree to refer their dispute to the Mediator for informal assistance in seeking a resolution. If thereafter the Parties are unable to resolve the dispute, the Parties intend this Agreement to become null and void, and unenforceable, in which event the settlement terms set forth in this Agreement, including any modifications made with the consent of the Parties, and any action taken or to be taken in connection with this Agreement shall be terminated and shall become null and void and have no further force or effect, and the class certified for settlement purposes pursuant to this Agreement will be decertified for all purposes.

b. In the event the Court does not grant preliminary or final approval of the Parties' settlement, or in the event that this Agreement shall terminate or the settlement embodied in this Agreement does not become effective for any reason, the Agreement and all negotiations, court orders and proceedings relating to the Agreement shall be without prejudice to the rights of the Named Plaintiff, Class Members, Aggrieved Employees, and Defendant, each of whom shall be restored to their respective positions existing prior to the execution of this Agreement, and evidence relating to the Agreement and all negotiations shall not be discoverable or admissible in the Actions or any other litigation. Defendant does not waive, and instead expressly reserves, its rights to challenge the propriety of class certification and/or the Actions proceeding on a representative basis for any purpose should the Court not grant preliminary or final approval of the Parties' settlement.

46. <u>Participating Class Members' Release Of Claims</u>. Upon the funding of the Gross Settlement Amount and the Employer's Taxes necessary to effectuate the Settlement to the Settlement Administrator, the Named Plaintiff and all Participating Class Members shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties from the Released Claims that arose during the Class Period.

a. This release by the Named Plaintiff and each Participating Class Member is intended to settle any and all of the Released Claims that any of them may have against Defendant or any of the Released Parties during the Class Period.

b. Because it is impossible or impracticable to have each Class Member execute this Agreement, the Class Notice will advise all Class Members of the binding nature of the release and such notice will have the same force and effect as if the Agreement were executed by each Class

Member.

47. Aggrieved Employees' Release of PAGA Claim. In exchange for the PAGA Amount recited in this Agreement, the Named Plaintiff, as the representatives for the State of California and all Aggrieved Employees (to the extent permitted by law), and on behalf of their current, former, and future heirs, executors, administrators, attorneys, agents, and assigns will, upon payment of the Gross Settlement Amount and the Employer's Taxes necessary to effectuate the settlement to the Settlement Administrator, forever completely release and discharge Defendant and each of the Released Parties from the PAGA Claims that arose during the PAGA Period. The Aggrieved Employees and the State of California will be deemed by operation of the Final Order and Judgment to have agreed not to sue or otherwise make a claim against Defendant and any of the Released Parties for the PAGA Claims that arose during the PAGA Period, to the extent permissible by law.

48. Full Release By The Named Plaintiff. Upon payment of the Gross Settlement Amount and the Employer's Taxes necessary to effectuate the settlement to the Settlement Administrator, the Named Plaintiff fully releases and discharges Defendant and the other Released Parties from the Released Claims and any other claims that the Named Plaintiff now has or claims to have, or has ever had or claimed to have, against Defendant and the Released Parties. Without limiting the generality of the foregoing, the Named Plaintiff specifically and expressly releases to the maximum extent permitted by law any claims against Defendant and the Released Parties, arising out of or relating to the Named Plaintiff's employment or the termination of his employment with Defendant and any other Released Party. This general release by the Named Plaintiff includes a waiver of Named Plaintiff's rights under Civil Code Section 1542, which provides: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

49. No Prior Assignments. The Named Plaintiff represents and warrants that he has not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights

released and discharged by this Agreement.

50. Settlement Payments And Calculation Of Claims. Subject to final Court approval and the conditions specified in this Agreement, and in consideration of the mutual covenants and promises set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount of $800,000.00. The Gross Settlement Amount includes, but is not limited to, payments to be made to Participating Class Members, Class Counsel's Attorneys' Fees and Costs, Enhancement Award to the Named Plaintiff, the PAGA Amount, and Settlement Administration Fees and Costs. For the avoidance of doubt, subject to the conditions set forth in this Agreement, Defendant shall not be required to pay any amount over $800,000.00 for this Settlement, apart from the employer's share of applicable taxes which will be paid in addition to the Gross Settlement Amount, and as set forth in Paragraph 51. The following table summarizes the allocation of the Gross Settlement Amount:

Gross Settlement Amount of $800,000.00, Allocated As Follows:

- **$40,000.00** for the PAGA Payment
    - **$30,000.00** for the LWDA Payment
    - **$10,000.00** for payments to Aggrieved Employees on a *pro rata* basis (i.e., Individual PAGA Payment)
- Class Counsel Attorneys' Fees not to exceed **$266,666.66**
- Class Counsel Costs not to exceed **$20,000.00**
- Up to **$10,000.00** for an Enhancement Award for Named Plaintiff
- Settlement Administration Costs, not to exceed **$8,500.00**
- Approximately **$454,833.34** paid to Class Members on a *pro rata* basis (i.e., Participating Class Member Payment)

51. Settlement Escalator. The Settlement is based on the representation that there were no more than 21,622 non-exempt workweeks worked by the Class Members during the period of July 20, 2019, through the date of the mediation (January 19, 2024). If that number is incorrect by more than 10% (i.e., by more than 2,162 workweeks), Defendant shall increase the Gross Settlement Amount proportionally. For example, if the number is 12% higher, the Gross Settlement Amount will be increased by 2%.

52. Apportionment of Gross Settlement Amount. The Parties agree, subject to Court

approval and the conditions specified in this Agreement, that the Gross Settlement Amount shall be apportioned as follows:

a. Class Counsel Attorneys' Fees and Costs: At the final approval hearing, Class Counsel will apply to the Court for an award of Attorneys' Fees of no more than thirty-three and one-third percent (33 1/3%) of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph 51 of this Agreement, equals $266,666.66. Class Counsel will also apply to the Court for an award of actual costs incurred by Class Counsel not to exceed the amount of $20,000.00. These fees and costs are included in, and shall come from, the Gross Settlement Amount. Class Counsel will be issued an IRS Form 1099 for any fees and costs awarded by the Court pursuant to this Paragraph 52.a. Except as provided in this Paragraph 52.a, each party will bear its own attorneys' fees, costs, and expenses incurred in the prosecution, defense, or settlement of the Actions. If the Court awards a lower amount of Attorneys' Fees and Costs than the amount requested, any amount not awarded will be part of the distribution to the Participating Class Members as set forth in this Agreement and shall not be a reason to invalidate/terminate this Agreement.

b. Settlement Administrator Costs: At the final approval hearing, Class Counsel will apply to the Court for approval of Settlement Administration costs, currently estimated at $8,500. These costs are included in, and shall come from, the Gross Settlement Amount. If the actual amount of the Settlement Administration Costs is less than $8,500, the difference shall be added to the Net Class Settlement Amount. If the Settlement Administration Costs exceed $8,500 then such excess will be paid solely from the Gross Settlement Amount and Defendant will not be responsible for paying any additional funds in order to pay these additional costs.

c. Named Plaintiff Enhancement Award: At the final approval hearing, Class Counsel will apply to the Court for awards of up to $10,000.00 to Named Plaintiff as an Enhancement Award for his services and for assuming the risks associated with this litigation, for the time spent in assisting Class Counsel to litigate this Action. Defendant will not oppose such application. The Enhancement Award is included in, and shall come from, the Gross Settlement Amount. Named Plaintiff will be issued an IRS Form 1099 for the Enhancement Award approved by the Court pursuant to this Paragraph. The Enhancement Award payable to Named Plaintiff shall be in addition to any payment they may receive pursuant to Paragraph 52.e, below. If the Court awards less than the amount requested, any amount not awarded will be part of the distribution to the Participating Class Members as set forth in this Agreement and shall not be a reason to invalidate/terminate this Agreement.

d. PAGA Amount: At the final approval hearing, Class Counsel will apply to the Court for approval of the PAGA Amount of $40,000.00 for claims for civil penalties asserted under PAGA. Class Counsel will submit notice of this Settlement to the LWDA, as required by Labor Code § 2699(*l*)(2). The Parties agree that 75% of the PAGA Amount ($30,000.00) will be paid to the LWDA as the "**LWDA Payment**," and the remaining 25% ($10,000.00) will be allocated to the Aggrieved Employees as the "PAGA Payment." The portion of the PAGA Payment allocated to each of the Aggrieved Employees will be calculated using the same formula as set forth in Paragraph 52.e, but will be limited to Pay Periods worked during the PAGA Period. Any Class Members who worked during the PAGA Period and who opt out of the Settlement will still be considered Aggrieved Employees for purposes of this Paragraph 52.d and, therefore, will (i) receive their portion of the PAGA Payment (the Individual PAGA Payment); and (ii) release all PAGA Claims against the Released Parties.

e. Individual Settlement Payments. The Individual Settlement Payments shall consist of: (i) each Participating Class Member's *pro rata* portion of the Net Class Settlement Amount (the "**Participating Class Member Payment**"); and (ii) if applicable, each Aggrieved Employee's *pro rata* portion of the PAGA Payment (the Individual PAGA Payment).

i) Participating Class Member Payment: After deducting the approved amounts specified in Paragraphs 52.a-d above, each Participating Class Member will be entitled to a *pro rata* portion of the remaining amount. Participating Class Member Payments will be calculated from the Net Class Settlement Amount based on the respective number of weeks worked by each Participating Class Member in a non-exempt position during the Class Period, rounded up to the nearest whole week. All Class Members will be deemed to have worked during at least one week during the Class Period. Each Participating Class Member's share of the Net Class Settlement

Amount will be calculated by dividing the Participating Class Member's weeks worked in a non-exempt position by the total number of weeks worked by all Class Members in a non-exempt position during the Class Period and multiplying this figure by the Net Class Settlement Amount. The Class Notice will include the number of weeks that the Class Member worked during the Class Period and the amount the Class Member is estimated to receive under the terms of the Settlement.

ii) Individual PAGA Payment: For each Aggrieved Employee, the Individual Settlement Payment will also include the Class Member's *pro rata* share of the PAGA Payment, as set forth in Paragraph 52.d (the Individual PAGA Payment).

f. Participating Class Member Payments shall be distributed only to Participating Class Members. The portion of the Net Class Settlement Amount allocated to Class Members who opt out of the Settlement will be distributed to Participating Class Members on a *pro rata* basis based on the formula set forth in Paragraph 52.e. Individual PAGA Payments will be distributed to all Aggrieved Employees.

g. The Parties agree that, under no circumstances shall Defendant be obligated to pay any amount under this Agreement to any Class Member other than Participating Class Members, with the exception of the Individual PAGA Payments which are not affected by a Class Member opting-out of the Settlement. In addition, the Parties agree that, except as provided in Paragraph 51, under no circumstances shall Defendant be obligated to pay more than the Gross Settlement Amount in full settlement of the Actions.

53. No Credit Toward Benefit Plans. The Individual Settlement Payments made to Participating Class Members under this Agreement, including the Individual PAGA Payments made to Aggrieved Employees, will not be utilized to calculate any additional benefits under any benefit plans to which any Participating Class Member or Aggrieved Employees may be eligible including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Agreement will not affect any rights, contributions, or amounts which any Participating Class Member or Aggrieved Employee may be entitled to under any benefit plans.

54. Taxation Of Settlement Proceeds. All settlement payments paid to Participating

Class Members, Aggrieved Employees, and the Named Plaintiff, will be paid in a net amount after applicable state and federal tax withholdings, including payroll taxes, have been deducted.

a. The Participating Class Member Payments shall be reported as follows: 25% of the amount distributed to each Participating Class Member will be considered wages, and will be reported as such to each Participating Class Member on a W-2 Form; (ii) 10% of the amount distributed to each Participating Class Member will be considered interest on the unpaid wages, and (iii) approximately 65% to statutory penalties, and will be reported as such to each Participating Class Member on an IRS Form 1099. The PAGA Payments distributed to each Aggrieved Employee will be considered penalties and will be reported on an IRS Form 1099.

b. Prior to mailing the Individual Settlement Payments, the Settlement Administrator will calculate, withhold from the Individual Settlement Payment, and remit to applicable governmental agencies sufficient amounts as may be owed by Participating Class Members for required withholdings and taxes, including all payroll taxes. The Settlement Administrator will issue appropriate tax forms to each Participating Class Member and Aggrieved Employee consistent with the foregoing breakdown. The Parties understand that the Named Plaintiff, Participating Class Members, and Aggrieved Employees who receive an Individual Settlement Payment, including an Individual PAGA Payment, pursuant to this Agreement shall be solely responsible for any and all tax obligations associated with such receipt.

c. The Parties stipulate that the Settlement Fund (as defined at Paragraph 59) will qualify as a settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal Revenue Code of 1986, as amended, and Section 1.468B-1 *et seq*. of the federal income tax regulations. Furthermore, the Settlement Administrator is designated as the "**Administrator**" of the qualified settlement funds for purposes of Section 1.468B-2(k) of the income tax regulations. Accordingly, all taxes imposed on the gross income of the Settlement Fund and any tax-related expenses arising from any income tax return or other reporting document that may be required by the Internal Revenue Service or any state or local taxing body will be paid from the Settlement Fund.

d. All Parties represent and acknowledge that nothing in this Agreement constitutes tax advice regarding the tax treatment of payments under federal, state, or local law. The

Named Plaintiff, Participating Class Members, and Aggrieved Employees will assume any such tax obligations or consequences that may arise from this Agreement and Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. In the event that any taxing body determines that additional taxes are due from any Class Member or Aggrieved Employee, including Named Plaintiff, such Class Member or Aggrieved Employee assumes all responsibility for the payment of such taxes.

55. Notice Procedure. Within 14 calendar days after entry of the Preliminary Approval Order, Defendant will provide to the Settlement Administrator a list of Class Members that identifies each Class Member by name, Social Security Number, and last-known address; and specifies the number of weeks worked by each Class Member in a non-exempt position during the Class Period and the PAGA Period (the "**Class List**"). Defendant will provide the Class List in an Excel file or other format reasonably acceptable to the Settlement Administrator. The Settlement Administrator will keep the list confidential, except it shall be provided to Class Counsel upon request with Social Security Numbers and address information redacted, and Class Counsel agrees to use such information only for the purposes described in this Agreement.

a. Upon receipt of the Class List, the Settlement Administrator shall perform a search based upon the National Change of Address Database to update and correct any known or identifiable address changes. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member. Within 14 calendar days after receipt of the Class List from Defendant, the Settlement Administrator will send the Class Notice to each Class Member via First Class U.S. Mail. Receipt of the Class Notice shall be presumed as to each and every Class Member whose Class Notice is not returned to the Settlement Administrator as undeliverable within 14 calendar days after mailing.

b. The Settlement Administrator will re-mail any notice packet returned by the United States Postal Service with a forwarding address on or before the expiration of the Notice Period. It shall be conclusively presumed that those Class Members whose re-mailed Class Notice is not returned to the Settlement Administrator as undeliverable within 14 calendar days after re-mailing, received the Class Notice. Class Members who receive a re-mailed Class Notice shall have

45 days from the date of the re-mailing to object, opt out, or dispute the workweeks attributed to him or her.

c. The Settlement Administrator will use the appropriate skip tracing and National Change of Address searches to increase the likelihood of delivery of the Class Notice to Class Members, and to re-mail the notice packets returned by the Postal Service without a forwarding address upon locating new or alternate addresses after a reasonable search.

d. Class Counsel will provide to the Court, in connection with seeking final approval of the Settlement, a declaration from the Settlement Administrator confirming that the Class Notice was mailed to all Class Members as required by this Agreement, as well as any additional information Class Counsel deems appropriate to provide to the Court.

56. <u>Dispute Procedure</u>. The Class Notice will include a procedure by which a Class Member may dispute the number of workweeks allocated to the Class Member by submitting a written dispute sent via U.S. Mail to the Settlement Administrator postmarked no later than the expiration of the Notice Period ("**Workweek Dispute**"). To be valid, a Workweek Dispute must contain the following: (i) the Class Member's full name and current address; (ii) the Action name and/or case number; (iii) the number of workweeks the Class Member maintains is correct; and (iv) documentary evidence sufficient to prove that Defendant's calculation of the workweeks for the Class Member is incorrect, if any. Upon receipt of notice of a Workweek Dispute, the Settlement Administrator shall promptly serve Defendant's counsel with a copy of the Workweek Dispute and any accompanying papers. Defendant's counsel will inform Class Counsel of any such dispute. No Workweek Dispute shall be effective or considered for any purpose unless it is timely mailed by U.S. mail to and received by the Settlement Administrator as provided above. Defendant shall have the right to respond to the Workweek Dispute by any Class Member. The Settlement Administrator will also attempt to resolve the Workweek Dispute. To the extent the Workweek Dispute cannot be resolved amongst the Parties, the Court will make a final and binding determination of any unresolved dispute.

a. Within 14 calendar days after the close of the Notice Period, the Settlement Administrator will provide Class Counsel and Defendant's counsel with a report listing the amount of all Individual Settlement Payments, including Individual PAGA Payments, to be made to Participating Class Members and Aggrieved Employees. The report to Class Counsel will not include the names or contact information of Participating Class Members and Aggrieved Employees.

57. Opt-Out Procedure. Unless a Class Member opts out of the settlement described in this Agreement, the Class Member will be bound by the terms and conditions of this Agreement, including the release of the Released Claims that arose during the Class Period. A Class Member will not be entitled to opt out of the settlement established by this Agreement unless the Class Member submits a valid opt-out request ("**Opt-Out Request**"). A valid Opt-Out Request must: (i) contain the Class Member's full name and current address; (ii) the Action name and/or case number; (iii) a statement clearly expressing the Class Member's desire to be excluded from (or opt out of) the Settlement; and (iv) be returned so that it is postmarked on or before the expiration of the Notice Period. Alternatively, a Class Member may fill out the Opt-Out Request Form attached to the Class Notice and return it so that it is postmarked on or before the expiration of the Notice Period. Any Class Members who worked during the PAGA Period and who opt out of the Settlement will still be considered Aggrieved Employees for purposes of this Agreement.

a. Upon receipt of any Opt-Out Request within the Notice Period, the Settlement Administrator shall review the Opt-Out Request to confirm that it complies with the opt-out requirements of this Agreement.

b. Any Class Member who fails to submit a timely, complete, and valid Opt-Out Request will be barred from opting out of this Agreement or the settlement, unless otherwise ordered by the Court. If the Settlement Administrator receives a timely Opt-Out Request that is incomplete, it will make reasonable attempts to contact the class member to cure the defect. The Settlement Administrator will not consider any Opt-Out Request postmarked after the end of the Notice Period, but will report its receipt of any such requests to Class Counsel and counsel for Defendant. It shall be presumed that if an Opt-Out Request is not postmarked on or before the end of the Notice Period, the Class Member did not make the request in a timely manner. Absent good cause found by the Court, a declaration submitted by any Class Member attesting to the mailing of an Opt-Out Request on or before the expiration of the Notice Period shall be insufficient to overcome the conclusive presumption that the Opt-Out Request was untimely. Under no circumstances shall the Settlement Administrator have the authority to extend the deadline for Class Members to submit a request to opt out of the settlement without the Parties' joint written consent.

c. At the close of the Notice Period, the Settlement Administrator shall report the names of all individuals who opted out of the Agreement to the parties and include this information in a Declaration regarding the distribution of the notice that will be provided in support of Plaintiff's Motion for Final Approval.

d. If 5% or more Class Members timely opt out of the settlement, Defendant will have the sole and absolute discretion to withdraw from this Agreement within fourteen (14) calendar days after Defendant receives notice of the number of opt outs. Defendant will provide written notice to Class Counsel if it intends to withdraw from this Agreement. In the event that Defendant elects to so withdraw, the withdrawal shall have the same effect as a termination of this Agreement for failure to satisfy a condition of settlement, and the Agreement shall become null and void and have no further force or effect, and the class certified pursuant to this Agreement will be decertified for all purposes. If Defendant chooses to terminate this Settlement Agreement under this provision, it shall be responsible to pay the Settlement Administrator's fees and costs. If the Settlement Agreement is terminated for any other reason, including the Court's failure to grant final approval of the Parties' settlement, then Class Counsel and Defendant will be jointly responsible for the Settlement Administrator's fees and costs.

58. <u>Objections To Settlement</u>. Any Class Member may object to the Settlement. Any written objection must be mailed to the Settlement Administrator (who shall promptly provide a copy to Class Counsel and counsel for Defendant) by the close of the Notice Period. Class Counsel will ensure that any written objections get filed with the Court concurrently with the final approval documents by having it attached to the Settlement Administrator's Declaration. Class Members who have not objected in writing may still appear and be heard at the Settlement Hearing.

a. Written objections to the Settlement must contain at least the following: (i) the objecting Class Member's full name and current address; (ii) a clear reference to the Action by name and/or case number; and (iii) a statement of the specific reasons why the objector believes the Settlement is unfair or objects to the Settlement. Alternatively, a Class Member may fill out the Notice of Objection to Class and PAGA Action Settlement Form attached to the Class Notice. In addition, though not required, the Parties ask that any objecting Class Member also include a statement of whether the objector intends to appear at the final approval hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. In addition,. Class Members may appear at the final approval hearing to state their objection even if they do not submit a written objection during the Notice Period.

b. Class Counsel or Defendant's counsel may, up to five (5) court days before the Final Hearing Date, file responses to any written objections submitted to the Court.

c. Unless they opt out of the Settlement as specified in Paragraph 57, Class Members who object to the proposed settlement or the Agreement will remain Participating Class Members, and shall be deemed to have voluntarily waived their right to pursue an independent remedy against Defendant and the other Released Parties. To the extent any Participating Class Member objects to the proposed settlement or Agreement and such objection is overruled in whole or in part, such individuals will be bound by the Court's Final Approval Order.

d. In the event that any person objects to or opposes this proposed settlement or the Agreement, or attempts to intervene in or otherwise enter the Actions, the Parties and Class Counsel will use their best efforts to defend the Settlement.

e. A Class Member cannot both opt out and object to the Settlement. If a Class Member both objects and opts out of the Settlement, the opt-out will control and the objection will be deemed invalid.

59. <u>Funding And Distribution Of Settlement</u>.

a. Within ten (10) calendar days of the close of the Notice Period, the Settlement Administrator will provide a draft declaration to Class Counsel and Defendant's counsel setting forth the number of Participating Class Members and Aggrieved Employees; the identity of those individuals who opted out of the Settlement; the total amount payable to all Participating Class

Members and Aggrieved Employees; and the total PAGA Amount, Attorneys' Fees and Costs, Enhancement Award, Settlement Administration Costs, Net Class Settlement Amount, and the appropriate applicable employer's taxes for any portion of the Individual Settlement Payments designated as wages.

b. On the later of fifteen (15) calendar days of the Settlement Administrator providing all the information necessary for Defendant to remit payment or fifteen (15) calendar days after the Effective Date, Defendant shall remit to the Settlement Administrator: (i) the Gross Settlement Amount of $800,000.00 and (ii) the employer's taxes for any portion of the Individual Settlement Payments designated as wages (the collectively, "**Settlement Fund**"). The delivery by Defendant of the Settlement Fund to the Settlement Administrator will constitute the full and complete discharge of the entire obligation of Defendant under this Agreement, unless anything further is requested by the Settlement Administrator to ensure timely and proper disbursement. No Released Party will have any further obligation or liability to the Named Plaintiff, Participating Class Members, Aggrieved Employees, or Class Counsel under this Agreement, in connection with the claims released herein, regardless of whether the Named Plaintiff, Participating Class Members, Aggrieved Employees, or Class Counsel receive the payments from the Settlement Administrator set forth in this Agreement.

c. The distribution of Individual Settlement Payments to Participating Class Members and Aggrieved Employees will occur no later than ten (10) calendar days after receipt of the Settlement Fund from Defendant ("**Settlement Proceeds Distribution Deadline**"). The Settlement Administrator shall be deemed to have timely distributed Individual Settlement Payments, including Individual PAGA Payments, if it places in the mail the Individual Settlement Payments for all Participating Class Members and the Individual PAGA Payments for all Aggrieved Employees by the Settlement Proceeds Distribution Deadline. No person will have any claim against the Settlement Administrator, Defendant, Class Counsel, Defendant's counsel, or any other agent designated by the Named Plaintiff or Class Counsel based upon the distribution of Individual Settlement Payments made substantially in accordance with this Agreement or further orders of the Court.

d. The distribution of the LWDA Payment, Attorneys' Fees and Costs, and the Enhancement Award shall occur no later than ten (10) calendar days after the Settlement Administrator receives the Settlement Fund from Defendant.

e. If a Participating Class Member's or Aggrieved Employee's check is returned to the Settlement Administrator, the Settlement Administrator will make reasonable efforts to re-mail it to the Participating Class Member or Aggrieved Employee at the correct address. It is expressly understood and agreed that the checks for the Individual Settlement Payments, including the Individual PAGA Payments, will become void and no longer available if not cashed within 180 calendar days after mailing. The funds from uncashed and voided checks will be transferred to the State of California's Unclaimed Property Fund in the name of the Participating Class Member/Aggrieved Employee.

f. Defendant will not be obligated to make any payments contemplated by this Agreement unless and until the Court enters the Final Order and Judgment, and after the Effective Date of the Agreement.

g. Within sixty (60) calendar days of the Settlement Proceeds Distribution Deadline, the Settlement Administrator will provide written certification of completion of settlement administration to Class Counsel and to Defendant's Counsel.

60. <u>Binding Effect Of Agreement On Class Members</u>. Subject to final Court approval and the occurrence of the Effective Date, and unless otherwise provided in this Agreement, all Participating Class Members will be bound by this Agreement.

61. <u>Binding Effect Of Agreement On Aggrieved Employees and State of California</u>. The Aggrieved Employees and the State of California, to the extent permitted by law, shall be deemed by operation of the Final Order and Judgment to have agreed not to sue or otherwise make a claim against Defendant or any of the Released Parties for any of the PAGA Claims and to be bound by the release of the PAGA Released Claims during the PAGA Period as set forth in this Agreement.

62. <u>Provisional Approval Of Settlement</u>. Named Plaintiff will file a motion in the Actions requesting that the Court enter the Preliminary Approval Order within 21 days after complete execution of this Agreement. Defendant will not oppose Class Counsel's motion for

preliminary approval of the settlement so long as the motion and supporting papers are consistent with the terms of this Agreement. Class Counsel will provide Defendant's counsel at least 3 business days to review, and provide comments to, the draft motion for preliminary approval of the settlement before the motion and supporting papers are filed with the Court. Notwithstanding the foregoing, Defendant may, without opposing the preliminary approval motion, advise the Court if Defendant dispute any of the factual statements concerning the claims at issue included by the Named Plaintiff in the motion and supporting papers. Defendant's counsel will meet and confer with Class Counsel regarding any disputed factual statements before notifying the Court of any disputes.

63. Non-Interference With Claims Procedure. The Parties and their counsel agree that they will not advise, solicit, or otherwise encourage any Class Members to submit requests for exclusion or objections to the settlement or to appeal from the Final Order or Final Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

64. Final Order and Judgment. The Named Plaintiff will request that the Court enter, after the Settlement Hearing finally approving this Agreement, a Final Order and Judgment. Named Plaintiff will request that the Final Order and Judgment certify the Participating Class; find that this Agreement is fair, just, equitable, reasonable, adequate and in the best interests of the Class and the Aggrieved Employees; list the employees (if any) who opted-out of the settlement; order that the Participating Class Members release the Released Parties from the Released Claims; order that the Aggrieved Employees and the State of California release the Released Parties from the PAGA Claims as set forth in this Agreement (to the extent permitted by law); and require the Parties to carry out the provisions of this Agreement.

65. Automatic Voiding Of Agreement If Settlement Not Finalized. If for any reason the settlement set forth in this Agreement does not become final, the settlement will be null and void and the orders, judgment, and dismissal to be entered pursuant to this Agreement shall be vacated, and the Parties will be returned to the status quo prior to entering this Agreement with respect to the Actions, as if the Parties had never entered into this Agreement, and the class certified pursuant to

this Agreement will be decertified for all purposes. In addition, in such event, the Agreement and all negotiations, court orders, and proceedings relating to this Agreement shall be without prejudice to the rights of any and all parties to this Agreement, and evidence relating to the Agreement and all negotiations shall not be admissible or discoverable in the Actions or otherwise.

66. No Double Recovery. No Class Member who has already released, assigned, or otherwise forfeited the claims asserted in the Action will be considered a Class Member or be entitled to recover under this Agreement. Such persons will be excluded from the Class List.

67. No Publicity. The Named Plaintiff and Class Counsel agree that they shall not publicize the filing of the Actions, the Parties' settlement, this Agreement and its terms, or the negotiations leading to this Agreement with anyone other than the Court, Class Members, or those individuals necessary to effectuate the terms of the Agreement. The prohibition set forth in this Paragraph 67 includes, but is not limited to: (i) publication by Named Plaintiff or Class Counsel on any website (including, without limitation, publishing on any Twitter account, Facebook, other social media, or blog, or business website) of the amount or terms of the settlement, with or without identifying information; and (ii) the submission of information to Verdicts & Settlements, Jury Verdicts, or any other publication that summarizes the results of jury verdicts and settlements.

a. Notwithstanding the foregoing, Class Counsel may respond to questions received from, and discuss any aspect of this Agreement with the Class Members or their legal representatives, the Settlement Administrator, the Court, and representatives of the California Labor and Workforce Development Agency.

b. Notwithstanding the forgoing, nothing in this Paragraph shall prohibit the filing of information with the Court or the LWDA relating to the Settlement that is necessary to effectuate this Agreement, or the online posting of documents relating to the Actions by the Settlement Administrator as permitted by this Agreement, including the Judgment entered by the Court.

c. The Named Plaintiff and Class Counsel agree that all data and information informally produced by Defendant in connection with the settlement of these Actions will be maintained in confidence, and will not be shared with any other persons or entities.

68. Invalidation Of Agreement For Failure To Satisfy Conditions. If the Court makes material changes to the material terms or conditions of Paragraphs 1 through 67 of this Agreement that are not agreed to by the Parties, either Party shall have the right to terminate this Agreement, in which case Defendant would not be obligated to make any payments to any Class Member, to Class Counsel, or to the Named Plaintiff. The Parties shall meet and confer in good faith and involve mediator Lisa Klerman as necessary before exercising such right.

69. Modification In Writing. This Agreement may be altered, amended, modified or waived, in whole or in part, only in a writing signed by all signatories to this Agreement and approved by the Court. This Agreement may not be amended, altered, modified or waived, in whole or in part, orally.

70. Ongoing Cooperation. The Named Plaintiff and Defendant will execute all documents and perform all acts necessary and proper to effectuate the terms of this Agreement. In the event the Parties are unable to reach an agreement on the form or content of any document needed to implement the Settlement, or any supplemental provisions that may become necessary to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Mediator (Lisa Klerman) and, if still unable to resolve their dispute, the Court.

71. Notices. All notices, requests, demands, and other communications required or permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered personally or by first class mail to the Settlement Administrator approved by the Court and the undersigned persons at their respective addresses as set forth below:

CLASS COUNSEL

JAMES HAWKINS APLC
James R. Hawkins, Esq.
Gregory Mauro, Esq.
Michael Calvo, Esq.
Lauren Falk, Esq.
Ava-Issary, Esq.
9880 Research Drive Suite 200
Irvine CA 92618
Tel.: (949) 387-7200

<u>**COUNSEL FOR DEFENDANT**</u>

RUTAN & TUCKER, LLP
Edson K. McClellan, Esq.
Noell C. Rice, Esq.
18575 Jamboree Road, 9th Floor
Irvine, California 92612
Telephone: (714) 641-5100

72. <u>Binding on Successors</u>. This Agreement will be binding upon and will inure to the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs and legal representatives.

73. <u>Entire Agreement</u>. This Agreement constitutes the full, complete, and entire understanding, agreement, and arrangement between the Named Plaintiff, the Class Members, and the Aggrieved Employees, on the one hand, and Defendant, on the other hand, with respect to the settlement of the Actions. This Agreement supersedes any and all prior oral or written understandings, agreements, and arrangements between the Parties with respect to the settlement of the Actions. Except for those set forth expressly in this Agreement, there are no other agreements, covenants, promises, representations or arrangements between the Parties with respect to the settlement of the Actions, the PAGA Claims, and the Released Claims against Defendant and its Released Parties. The Parties explicitly recognize California Civil Code section 1625 and California Code of Civil Procedure section 1856(a), which provide that a written agreement is to be construed according to its terms, and may not be varied or contradicted by extrinsic evidence, and agree that no such extrinsic oral or written representations or terms shall modify, vary, or contradict the terms of this Agreement.

74. <u>Execution In Counterparts</u>. This Agreement may be signed in one or more counterparts. All executed copies of this Settlement Agreement, and photocopies of the Agreement (including DocuSign, facsimile and e-mail copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.

75. <u>Captions</u>. The captions, section numbers, and paragraph numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe, or describe the scope

or intent of the provisions of this Agreement.

76. Governing Law. This Agreement shall be interpreted, construed, enforced, and administered in accordance with the laws of the State of California, without regard to conflict of law rules.

77. Reservation Of Jurisdiction. Notwithstanding the dismissal of the Actions and entry of the Final Order and Judgment, the Court shall retain jurisdiction for purposes of interpreting and enforcing the terms of this Agreement pursuant to California Code of Civil Procedure section 664.6 and California Rules of Court, Rule 3.769(h).

78. Mutual Preparation. The Parties have had the full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against one Party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

79. Representation and Warranties. Class Counsel and the Named Plaintiff represent and warrant to Defendant that they are not aware of any attorneys beyond those named as Class Counsel who have claims for fees arising out of the Actions or the Settlement contemplated by this Agreement.

80. Authorization to Act. Each Party to this Agreement covenants and warrants that (a) such Party has full power and authority to enter into and consummate all transactions contemplated by this Agreement and have duly authorized the execution, delivery, and performance of this Agreement; and (b) the person executing this Agreement for such Party has the full right, power, and authority to enter into this Agreement on behalf of such Party, and the full right, power, and authority to execute any and all necessary instruments in connection with the Settlement, and to fully bind such Party to the terms and obligations of this Agreement.

81. Representation By Counsel. The Parties acknowledge that each of them has been represented by their respective counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of their respective counsel. Further, the Named Plaintiff and Class Counsel warrant and represent that there

are no liens on the Settlement Agreement, and that after entry by the Court of the Final Order and Judgment, the Settlement Administrator may distribute funds to Participating Class Members, Aggrieved Employees, Class Counsel, the LWDA, the Settlement Administrator, and the Named Plaintiff as provided by this Agreement.

82. Representation By The Named Plaintiff. The Named Plaintiff agrees not to request to be excluded from the Class and not to object to any terms of this Agreement. Any such request by the Named Plaintiff for exclusion or objection shall be void and of no force or effect.

83. Additional Attorneys' Fees and Costs. No Participating Class Member, Aggrieved Employee, or Class Counsel, or any other attorney acting for any Participating Class Member or Aggrieved Employee may recover or seek to recover any amounts for fees, costs, or disbursements arising from the Actions or the Gross Settlement Amount from the Released Parties except as expressly provided for in this Agreement.

84. No Reliance on Representations. The Parties have made such investigations of the facts and the law pertaining to the matters described in this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any other Party, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters. No representations, warranties, or inducements have been made to any Party concerning this Agreement.

85. No Collateral Attack. This Agreement will not be subject to collateral attack by any Class Member or any recipient of the Class Notice after the Final Order and Dismissal. Such prohibited collateral attacks shall include but not be limited to claims that the Class Member failed for any reason to receive timely notice of the procedure for disputing the calculation of their Individual Settlement Payment, or for opting out of the Settlement.

IT IS SO AGREED:

[Signatures on following page.]

Dated: 4/5/24

PLAINTIFF JOSE ROBERTO COCA MOLINA

By: ______________________
Jose Roberto Coca Molina
Named Plaintiff

Dated: 5-1-24

DEFENDANT AMM MARKET, INC. dba MISSION RANCH MARKET

By: ______________________

Title: moftaba-shahriary CEO

APPROVED AS TO FORM ONLY AND AGREE TO BE BOUND BY PARAGRAPH 67:

Dated: April 18, 2024

JAMES HAWKINS APLC

By: ______________________
Gregory Mauro
Attorney for Plaintiff

APPROVED AS TO FORM ONLY:

Dated: May 5, 2024

RUTAN & TUCKER, LLP

By: ______________________
Edson K. McClellan
Attorney for Defendant

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

JOSE ROBERTO COCA MOLINA V. A M M MARKET, INC. DBA MISSION RANCH MARKET
SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF ORANGE, CASE NOS. 30-2023-01337256-CU-OE-CXC AND 30-2023-01351378-CU-OE-CXC

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because Defendant's records indicate that you may be eligible to take part in the class action and PAGA representative action settlement reached in the above-referenced cases.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the settlement, your legal rights may be affected.

This Class Notice is designed to advise you of your rights and options, and how you can request to be excluded from the class action settlement, object to the class action settlement, and/or dispute the number of Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class action and PAGA representative action settlement has been reached between Plaintiff Jose Roberto Coca Molina ("Plaintiff") and Defendant A M M Market, Inc. dba Mission Ranch Market ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the cases entitled *Jose Roberto Coca Molina v. A M M Market, Inc. dba Mission Ranch Market*, Orange County Superior Court, Case Nos. 30-2023-01337256-CU-OE-CXC ("Class Action") and Case No. 30-2023-01351378-CU-OE-CXC ("PAGA Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"**Class**" means all persons who have been employed by Defendant as Non-Exempt Employees or equivalent positions however titled in the state of California from July 20, 2019 through [date of 120 days after full execution of the Settlement Agreement].

"**Class Member**" means a member of the Class.

"**Class Period**" means July 20, 2019 through [date of 120 days after full execution of the Settlement Agreement].

"**Class Settlement**" means the settlement and release of all Released Class Claims (described in Section III.E below).

"**Aggrieved Employees**" means all individuals who are or previously were employed by Defendant as non-exempt California employees from July 24, 2022 through [date of 120 days after full execution of the Settlement Agreement].

"**PAGA Period**" means the period July 24, 2022 through [date of 120 days after full execution of the Settlement Agreement].

"**PAGA Settlement**" means the settlement and release of the Released PAGA Claims (described in Section

III.E below).

II. BACKGROUND OF THE ACTION

On July 20, 2023, Plaintiff provided written notice via online submission to the Labor and Workforce Development Agency ("LWDA") and Defendant via certified mail of the specific provisions of the California Labor Code that he contends were violated ("PAGA Notice Letter"). On July 20, 2023, Plaintiff filed a Class Action Complaint for Damages ("Class Complaint") in the Class Action. On September 27, 2023, Plaintiff filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq ("PAGA Complaint") in the PAGA Action (the Class Action and PAGA Action are collectively referred to as the "Actions") (the Class Complaint and PAGA Complaint are collectively referred to as the "Operative Complaints"). Plaintiff alleges that Defendant failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide compliant wage statements, keep requisite payroll records, and thereby engaged in unfair business practices and asserts that Defendant owes penalties under California Labor Code section 2698, *et seq*. ("PAGA") Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, restitution, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the allegations in the Actions or that it violated any law. Defendant asserts that at all times it has complied with federal, state, and local laws.

After investigation and analysis of the claims, the Parties engaged in good faith, arms-length negotiations, and as a result, the Parties reached a settlement. The Parties have since entered into the Settlement Agreement and Stipulation to Resolve Class Action and PAGA Claims ("Settlement" or "Settlement Agreement").

On [Date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has preliminarily appointed Apex Class Action, LLC as the administrator of the Settlement ("Settlement Administrator"), Plaintiff Jose Roberto Coca Molina as representative of the Class ("Class Representative"), and the following counsel as counsel for the Class ("Class Counsel"):

JAMES HAWKINS APLC
James R. Hawkins, Esq.
Gregory Mauro, Esq.
Michael Calvo, Esq.
Lauren Falk, Esq.
Ava-Issary, Esq.
9880 Research Drive Suite 200
Irvine CA 92618
Tel.: (949) 387-7200

Attorneys for A M M Market, Inc. dba Mission Ranch Market are:

RUTAN & TUCKER, LLP
Edson K. McClellan, Esq.
Noell C. Rice, Esq.
18575 Jamboree Road, 9th Floor
Irvine, California 92612
Telephone: (714) 641-5100

If you are a Class Member, you need not take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are an Aggrieved Employee, you do not need to take any action to receive an Individual PAGA Payment, but you have the opportunity to dispute the Workweeks credited to you, as explained more fully in Sections III and IV below.

The Settlement represents a compromise and settlement of highly disputed claims. Defendant does not admit that the claims in the Actions have any merit or that Defendant owes anything to Plaintiff or to Class Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members. The Court has made no ruling on the merits of the claims asserted in the Actions and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is Eight Hundred Thousand Dollars ($800,000.00) (the "Gross Settlement Amount"). The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Gross Settlement Amount, less the following payments which are subject to approval by the Court: (1) Attorneys' Fees in an amount not to exceed 33 1/3% of the Gross Settlement Amount (i.e., $266,666.66) ("Attorneys' Fees") and reimbursement of litigation costs and expenses, in an amount not to exceed Twenty Thousand Dollars ($20,000.00) ("Attorneys' Costs") to Class Counsel; (2) Enhancement Award in an amount not to exceed Ten Thousand Dollars ($10,000.00) to Plaintiff for his services in the Actions; (3) Settlement Administration Costs in an amount not to exceed Eight Thousand Five Hundred Dollars ($8,500.00) to the Settlement Administrator; and (4) the amount of Forty Thousand Dollars ($40,000.00) allocated toward civil penalties under the Private Attorneys General Act ("PAGA Amount"). The PAGA Amount will be distributed 75% ($30,000.00) to the LWDA ("LWDA Payment") and the remaining 25% (i.e., $10,000.00) will be distributed to Aggrieved Employees ("PAGA Payment").

B. Individual Settlement Payments and Individual PAGA Payments

Class Members are entitled to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount ("Individual Settlement Payment") based on the number of weeks each Class Member worked for Defendant in a non-exempt position in California during the Class Period ("Workweeks").

To calculate each Individual Settlement Payment, the Settlement Administrator has divided the Participating Class Member's weeks worked in a non-exempt position by the total number of weeks worked by all Class Members in a non-exempt position during the Class Period and multiplying this figure by the Net Class Settlement Amount, to yield each Participating Class Member's Individual Settlement Payment (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion ("Participating Class Members") will be issued their payment of their final Individual Settlement Payment.

Each Individual Settlement Payment will be allocated as twenty-five percent (25%) wages, which will be reported on an IRS Form W-2; ten percent (10%) interest on the unpaid wages, which will be reported on an IRS Form 1099; and sixty-five percent (65%) for statutory penalties, which will be reported on an IRS Form 1099. Each Individual Settlement Payment shall be subject to reduction for the employee's share of payroll taxes due on the wages portion of Individual Settlement Payment. The employer's share of the payroll taxes associated with the wage portion of the Individual Settlement Payments ("Employer Payroll Taxes") will be paid by Defendant separately and in addition to the Gross Settlement Amount.

Each Aggrieved Employee will receive a *pro rata* share of the PAGA Payment ("Individual PAGA Payment"), regardless of whether he or she requests exclusion from the Class Settlement. Each Individual PAGA Payment has been calculated based on the number of pay periods of each Aggrieved Employee during the PAGA Period ("PAGA Pay Periods"). To calculate each Individual PAGA Payment, the Settlement Administrator has divided the Aggrieved Employee's pay periods worked in a non-exempt position by the total number of pay periods worked by all Aggrieved Employees in a non-exempt position during the PAGA Period and multiplying this figure by the PAGA Amount, to yield each Aggrieved Employee's Individual PAGA Payment (which is listed in Section III.C below).

Individual PAGA Payments will be allocated one hundred percent (100%) as penalties, and will be paid without any withholding amount and reported on an IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Participating Class Members and Individual PAGA Payments will be mailed to Aggrieved Employees at the address that is on file with the Settlement Administrator. **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to under the Settlement.**

C. Your Workweeks Based on Defendant's Records

According to Defendant's records:

> **From July 20, 2019 through [Date of Preliminary Approval] (i.e., Class Period), you are credited as having worked [_____] Workweeks.**
>
> **From July 24, 2022 through [Date of Preliminary Approval] (i.e., PAGA Period), you are credited as having worked [_____] Workweeks.**

If you wish to dispute the Workweeks and/or PAGA Pay Periods credited to you, you must submit a written dispute ("Workweek Dispute") that: (1) contains your full name and current address; (2) contains the case name and number of the Class Action (*Jose Roberto Coca Molina v. A M M Market, Inc. dba Mission Ranch Market*, Orange County Superior Court, Case No. 30-2023-01337256-CU-OE-CXC); (3) clearly states that you dispute the number of Workweeks credited to you and the number of Workweeks you maintain is correct; and (4) attaches documents to demonstrate that Defendant's calculations of the Workweeks for you is incorrect. The Workweek Dispute must be mailed to the Settlement Administrator at the address specified in Section IV.B. below and postmarked by [Response Deadline].

D. Your Estimated Individual Settlement Payment and Individual PAGA Payment

As explained above, your estimated Individual Settlement Payment is based on the number of Workweeks credited to you.

> **Under the terms of the Settlement, your Individual Settlement Payment is estimated to be $___________. The Individual Settlement Payment is subject to reduction for**

the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Payment.

As explained above, your estimated Individual PAGA Payment is based on the number of PAGA Pay Periods credited to you.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be $___________.

The settlement approval process may take multiple months. Your Individual Settlement Payment and/or Individual PAGA Payment (if applicable) reflected in this Class Notice is only an estimate. Your actual Individual Settlement Payment and/or Individual PAGA Payment (if applicable) may be higher or lower. Payments will be distributed only after the Court grants final approval of the Settlement, and after the Settlement goes into effect.

E. Released Claims

Upon the Effective Date and full funding of the Gross Settlement Amount and Employer Payroll Taxes, Plaintiff and all Participating Class Members shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all of the Released Parties from the Released Class Claims that arose during the Class Period.

Upon the Effective Date and full funding of the Gross Settlement Amount and Employer Payroll Taxes, Plaintiff, the State of California, and Aggrieved Employees shall be deemed to have completely released and discharged the Released Parties from the Released PAGA Claims that arose during the PAGA Period.

"Released Class Claims" means, for the duration of the Class Period, any and all claims, actions, or causes of action against Defendant and the other Released Parties (a) that are alleged in the operative complaint; and/or (b) that could have been alleged in the operative complaint based upon or arising out of the facts alleged therein, except those arising under PAGA. Without limiting the foregoing, and in addition to the foregoing, the Released Claims include claims premised on the failure to pay all minimum wages and overtime compensation including, but not limited to, time spent working off-the-clock; failure to provide meal periods and rest breaks or premium payments; failure to provide and maintain complete and accurate itemized wage statements; failure to keep complete and accurate payroll records; untimely payment of wages during employment and at the time of termination; unfair business practices; violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1194, 1194.2, 1197, 1197.1, 1198; related violations of the applicable California Wage Orders; violations of all related or corresponding federal laws; and violations of California Business and Professions Code section 17200, *et seq* in connection with the alleged Labor Code violations alleged (or that could be alleged based on the facts pled) in the Actions. The Released Claims excludes claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation claims, FEHA-related claims for retaliation, discrimination or harassment, and any claims outside of the Class Period.

"Released PAGA Claims" means, for the PAGA Period, claims for penalties under the California Private Attorneys' General Act (California Labor Code § 2698, *et seq.*) that (a) arise from the facts, matters, transactions or occurrences alleged in the Actions or that could have been alleged in the Actions based on such facts; and/or (b) arise from the facts, matters, transactions or occurrences alleged, or that could have been alleged, in the PAGA Notice Letters sent by the Named Plaintiff to the Labor and Workforce Development Agency ("LWDA") pursuant to Labor Code section 2699.3 on or about July 20, 2023 asserting that Defendant violated various provisions of the Labor Code. Without limiting the foregoing, and in addition to the foregoing, the PAGA Claims include claims premised on the failure to pay all minimum wages and overtime compensation including, but not limited to, time spent working off-the-clock; failure to provide meal periods and rest breaks or premium payments; failure to provide and maintain complete and accurate itemized wage statements; failure to keep complete and accurate payroll records; untimely payment of wages during employment and at the time of termination; violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198; in connection with the allegations in the LWDA Notices and Operative Complaint; and related violations of the applicable California Wage Orders and California Code of Regulations, Title 8, section 11000 *et seq*. The PAGA Claims excludes claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation claims, FEHA-related claims for retaliation, discrimination or harassment, and any claims outside of the PAGA Period.

"Released Parties" means and includes A M M Market, Inc. dba Mission Ranch Market and its respective current and former parents, predecessors or successors, holding companies, owners, subsidiaries, divisions, and affiliated or related persons or entities, and each of their respective officers, directors, managers, employees, insurers, partners, shareholders, members, attorneys, agents, executors, and assigns.

F. Attorneys' Fees and Litigation Costs to Class Counsel

Class Counsel will seek attorneys' fees in an amount of up to thirty three and one-third percent (33 1/3%) of the Gross Settlement Amount (i.e., an amount of up to $266,666.66) ("Attorneys' Fees") and reimbursement of litigation costs and expenses in an amount of up to Twenty Thousand Dollars ($20,000.00) ("Attorneys' Costs"), subject to approval by the Court. The Attorneys' Fees and Costs granted by the Court will be paid from the Gross Settlement Amount. Class Counsel has been prosecuting the Actions on behalf of Plaintiff and Class Members without being paid any money to date and has been paying all litigation costs and expenses.

G. Enhancement Award to Plaintiff

Plaintiff will seek the amount of Ten Thousand Dollars ($10,000.00) ("Enhancement Award"), in recognition of his services in connection with the Actions. The Enhancement Award will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment (if applicable) that he is entitled to under the Settlement.

H. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Eight Thousand Five Hundred Dollars ($8,500.00) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Opt-Out Requests, objections, and Workweek Disputes, calculating Individual Settlement Payments and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Class Claims described in Section III.E above.

If you are an Aggrieved Employee, you do not need to take any action in order to be issued an Individual PAGA Payment. You will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims described in Section III.E above.

Class Members and Aggrieved Employees will not be separately responsible for the payment of attorney's fees or litigation costs and expenses, unless they retain their own counsel, in which event they will be responsible for your own attorney's fees and expenses.

B. Request Exclusion from the Class Settlement

If you do not wish to participate in the Class Settlement, you must seek exclusion from the Class Settlement by submitting a written request ("Opt-Out Request"), which must: (1) contain your full name and current address; (2) contain the name and case number of the Class Action (*Jose Roberto Coca Molina v. A M M Market, Inc. dba Mission Ranch Market*, Orange County Superior Court, Case No. 30-2023-01337256-CU-OE-CXC); (3) contain a written request clearly expressing your desire to be excluded from (or opt out of) the Class Settlement; and (4) be returned to the Settlement Administrator at the address specified below and postmarked by [Response Deadline]. Alternatively, a Class Member may fill out the Opt-Out Request Form attached to the Class Notice and return it so that it is postmarked by [Response Deadline].

[Settlement Administrator]
[Address]

If the Court grants final approval of the Settlement, any Class Member who does not submit a timely and valid Opt-Out Request will be deemed a Participating Class Member and will be bound by all terms of the Settlement, including those pertaining to the release of claims described in Section III.E above, as well as any judgment that may be entered by the Court based thereon.

All Aggrieved Employees will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.E above) and will still be issued an Individual PAGA Payment, regardless of whether they submit an Opt-Out Request.

C. Object to the Class Settlement

You can object to the terms of the Class Settlement as long as you have not submitted an Opt-Out Request, by submitting a written objection to the Settlement Administrator or by appearing in person or through counsel and orally objecting at the Final Approval Hearing, whether or not you have submitted a written objection.

A written objection must: (1) contain your full name and current address; (2) contain the name and case number of the Class Action (*Jose Roberto Coca Molina v. A M M Market, Inc. dba Mission Ranch Market*, Orange County Superior Court, Case No. 30-2023-01337256-CU-OE-CXC); and (3) contain a statement of the specific reasons why you believe the Class Settlement is unfair or objects to the Class Settlement. Alternatively, a Class Member may fill out the Notice of Objection to Class and PAGA Action Settlement Form attached to the Class Notice. In addition, though not required, the Parties ask that any objecting Class Member also include a statement of whether the objector intends to appear at the final approval hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. You are also encouraged to include copies of any papers, briefs, or other documents upon which the objection is based. All written objections must be mailed to the Settlement Administrator at the address specified above in Section IV.B. and postmarked by [Response Deadline].

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department CX105 of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701, on [**date**], at [**time**], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award Attorneys' Fees and Costs to Class Counsel, Enhancement Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

Please visit the Court's website for the most up-to-date information regarding the impact of COVID-19 on the operations of the Court and any requirements that may apply for accessing Court facilities: https://www.occourts.org/media-relations/CoronaVirusUpdate.html.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and documents filed in the Action for a fee by vising the civil clerk's office, located at 700 Civic Center Drive, Santa Ana, California 92701, 1st Floor, Room D 100, during business hours, or online by visiting the following website: https://courtindex.occourts.org/, clicking "Accept Terms" and typing in the Court Case Number "30-2023-01337256-CU-OE-CXC."

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.

OPT-OUT REQUEST FORM

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
Jose Roberto Coca Molina v. A M M Market, Inc. dba Mission Ranch Market
Case No. 30-2023-01337256-CU-OE-CXC

«ID»
«EmployeeName»
«Address1» «Address2»
«City», «State» «Zip»

Please provide current address (if different) here:
____
____
____

INSTRUCTIONS

IF YOU DO NOT WISH TO RECEIVE MONEY FROM THE SETTLEMENT DESCRIBED IN THE ACCOMPANYING NOTICE, PLEASE COMPLETE THIS FORM.

You have a right to exclude yourself ("opt out") from the Settlement Class, but if you choose to do so, you will not receive any payment from the proposed settlement. You will **not** be bound by a judgment in this case. You will retain your own rights.

If you choose to exclude yourself, you must complete this form and send the signed form no later than [Response Deadline] to *Jose Roberto Coca Molina v. A M M Market, Inc. dba Mission Ranch Market*, c/o Apex Class Action, LLC, [Address].

1) NAME:____
2) ADDRESS:____
3) TELEPHONE NUMBER: ________________________________
4) LAST FOUR OF YOUR SOCIAL SECURITY NUMBER: ____________________

I HEREBY CONFIRM THAT I WANT TO BE EXCLUDED FROM THE SETTLEMENT.

5) DATE:____
6) SIGNATURE:____

NOTICE OF OBJECTION TO CLASS AND PAGA ACTION SETTLEMENT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
Jose Roberto Coca Molina v. A M M Market, Inc. dba Mission Ranch Market
Case Nos. 30-2023-01337256-CU-OE-CXC AND 30-2023-01351378-CU-OE-CXC

«ID»
«EmployeeName»
«Address1» «Address2»
«City», «State» «Zip»

Please provide current address (if different) here:
____
____
____

INSTRUCTIONS

IF YOU WISH TO OBJECT TO THE SETTLEMENT DESCRIBED IN THE ACCOMPANYING NOTICE, PLEASE COMPLETE THIS FORM.

You have a right to object to the Settlement, or any of its terms. In order to object, you must not have submitted a Request to be Excluded from Class Acton Settlement Form. If you choose to object, you must complete this form and send the signed form no later than [Response Deadline] to *Jose Roberto Coca Molina v. A M M Market, Inc. dba Mission Ranch Market*, c/o Apex Class Action, LLC, [Address].

1) NAME: ____

2) ADDRESS: ____

3) TELEPHONE NUMBER: ____

4) LAST FOUR OF YOUR SOCIAL SECURITY NUMBER AND/OR EMPLOYEE IDENTIFICATION NUMBER: ____

5) DATES OF EMPLOYMENT WITH COMPANY: ____

6) DO YOU INTEND TO APPEAR AT THE FINAL APPROVAL HEARING? (CIRCLE: YES / NO)

7) IF YOU INTEND TO APPEAR AT THE FINAL APPROVAL HEARING THROUGH COUNSEL, IDENTIFY THAT COUNSEL BY NAME, BAR NUMBER, ADDRESS AND TELEPHONE NUMBER: ____

   ____

8) DESCRIBE THE BASIS OF YOUR OBJECTION IN THE SPACE PROVIDED ON THE REVERSE SIDE OF THIS FORM. YOU MAY ENCLOSE ADDITIONAL PAGES.

I HEREBY CONFIRM THAT I WANT TO OBJECT TO THE SETTLEMENT FOR THE REASONS STATED HEREIN.

9) DATE: ____

10) SIGNATURE: ____

QUESTIONS? CALL ADMINISTRATION TOLL FREE [settlement administrator's 800-number]
Please do not call the Court directly